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7 *(Defendant is Exempt from Filing Fees Pursuant to Cal. Gov't. Code § 6103)*  
8

9 UNITED STATES DISTRICT COURT  
10 EASTERN DISTRICT OF CALIFORNIA  
11

12 LOUIE MARQUES, et al.,	)	Case No:
	)	
13 Plaintiffs,	)	NOTICE OF REMOVAL OF ACTION UNDER
	)	28 U.S.C. 1441(a) (FEDERAL QUESTION)
14 v.	)	
	)	
15 GUIDING HANDS SCHOOL, INC., et al.,	)	
Defendants.	)	
	)	
16	)	
	)	
17	)	
	)	
18	)	
	)	
19	)	

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**TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

PLEASE TAKE NOTICE that defendant California Department of Education (CDE) hereby removes to this Court the state court action described below.

1. On August 27, 2020, an action was commenced in the Superior Court of the State of California in and for the County of El Dorado, entitled *Louie Marques et al. v. Guiding Hands School, Inc., et al.*, designated as Case No. PC 20200429. The complaint is attached hereto as **Exhibit A**. This Complaint was not served on moving Defendant or, apparently, on any other named Defendants. On February 23, 2021, Plaintiffs filed a First Amended Complaint (FAC). **Exhibit B**. The FAC was not served on moving Defendant or, apparently, on any other named Defendants. On November 2, 2021, Plaintiffs filed a Second Amended Complaint (SAC). **Exhibit C**.

2. On December 30, 2021, the CDE received a copy of the Summons and SAC via service under Cal Civ. Proc. Code § 415.30. **Exhibit D**. The CDE executed the Notice of Acknowledgment provided with that service on January 14, 2022 pursuant to Cal Civ. Proc. Code § 415.30(c), see **Exhibit E**, and therefore, by statute, service was deemed complete on that date. See *HMS Cornerstone Solutions, Inc. v. Signorelli Co.*, 2017 WL 3433203 at \*2 (E.D. Cal.).

3. The CDE received the entire court file from the clerk of the El Dorado County Superior Court on January 18, 2022. It is attached as **Exhibit F**.

4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(a) regarding federal question jurisdiction in that it arises under 42 U.S.C. § 12132 and 29 U.S.C. § 794, as alleged in Plaintiffs' SAC.

5. No other Defendants have joined in this Notice of Removal, nor are they required to, as it is the noticing party's knowledge and understanding that service has not yet been affected upon them.

Dated: January 25, 2022

Respectfully submitted,

By: /s/ Len Garfinkel  
LEN GARFINKEL  
Assistant General Counsel  
Attorney for Defendant CDE

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EL DORADO CO. SUPERIOR CT.

FILED AUG 27 2020

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF EL DORADO

In the Matter of:

\_\_\_\_\_  
 Louie Andreas MARQUES, Gloria V.M.,  
 Thomas V.M., and Jordan V.M.,

Plaintiffs

vs

GUIDING HANDS SCHOOL, Inc.(hereinafter  
 "GHS"),Jennifer GALAS, Staranne  
 MEYERS, Cindy KELLER, David  
 CHAMBERS, STATE OF CALIFORNIA,  
 DEPARTMENT OF EDUCATION, PLACER  
 COUNTY SELPA, Cara BRUCE, Ashley ROB,  
 Dolores ZUMBURY, Vince ANDERSON,  
 POINT QUEST, Inc., ROCKLIN UNIFIED  
 SCHOOL DISTRICT, Noel COLLIER,  
 Patricia DOE, David DOE, Amanda DOE, and  
 Noelle DOE,

Defendants.

Case No.:

**PC 20200429**

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

Assigned to  
 Judge Dylan Sullivan  
 For all purposes

INTRODUCTION

Plaintiffs MARQUES, Thomas and Jordan V.M. attended Guiding Hands School, Inc.  
 (GHS), a non-public school (NPS) as defined by the education code and certified by the  
 California Department of Education (CDE) as such addressing the educational  
 requirements children with disabilities. Each of the Plaintiffs were placed at GHS by  
 their respective school districts pursuant to an Individual Education Plan (IEP) because

CMS

Exhibit A

N. Court Fax Filing

A35-

1 the school district determined it was unable to provide a Free Appropriate Public  
2 Education.

3 After GHS was closed and sold to Defendant POINT QUEST INC. (POINT QUEST),  
4 Thomas and Jordan V.M. attended Defendant POINT QUEST, a non-public school  
5 (NPS) as defined by the education code and certified by the California Department of  
6 Education (CDE) as such addressing the educational requirements children with  
7 disabilities.  
8

9 1. Guiding Hands School staff engaged in a pattern and practice of illegal use of restraints  
10 for periods of time that were longer than necessary and with excessive force as a means of  
11 punishing children for predictable disability-related behaviors outlined in their individual  
12 Behavioral Intervention Plans (BIP).  
13

14 2. Staff members, rather than following the prescribed BIP, would place children in hurtful  
15 positions, manipulating and restraining the child's body movement in such a way that to move  
16 would cause lasting pain.  
17

18 3. Plaintiff MARQUEZ was a disabled student, placed on March 30, 2006, at GHS because  
19 of his emotional disability. He left GHS on March 19, 2008, after an incident that required  
20 medical attention as a result of actions of school staff placing him in restraint.

21 4. Plaintiff Thomas V.M. was a disabled student, placed \_\_\_\_\_, at GHS because of his  
22 diagnosis of Autism. Plaintiff Jordan V.M. was a disabled student, placed \_\_\_\_\_, at GHS  
23 because of his diagnosis of Autism. All plaintiffs, due to their disabilities, engaged in repetitive  
24 conduct that disrupted their educational experience and abilities. Because of the disruption that  
25 affected other students, they were frequently placed in such restraints, which included but was  
26 not limited to, the imposition of restraints that constituted physical child abuse, battery, and  
27  
28

1 assault.

2 5. Referring to these restraints as though they were normal and accepted ways of  
3 disciplining plaintiffs, Defendant teachers and assisting staff, as individually identified below,  
4 preyed on plaintiffs because of their disability related conduct. These defendants assaulted and  
5 battered plaintiffs repeatedly rather than following the BIPs. GHS administrators tasked  
6 unqualified and inadequately trained staff with supervising plaintiff students, who often failed to  
7 document and report incidents of abuse, and failed to take reasonable steps to prevent further  
8 abuse.  
9

10 6. Plaintiffs, like other students who were also subjected to such conduct, would attend  
11 class and when a student acted consistently with their predictable behaviors stated in their  
12 individual BIP and IEP (and the reason(s) why they were placed at GHS) or failed to follow the  
13 directions of the GHS staff as individually described below, they would be subjected to painful  
14 restraints in full and open view of fellow students. Each plaintiff had specific conduct that was  
15 identified in their BIP, for which, each plaintiff had a set of less restrictive measures to be taken  
16 before a "hands on" physical intervention such as painful restraints would be exercised.  
17

18 7. Plaintiffs witnessed other students treated in the same way in their respective classes.  
19 The observation of such torturous conduct to other students and themselves caused Plaintiffs  
20 who were in their immediate presence to experience fear and anxiety such that they were  
21 terrorized in anticipation that they too might be hurt in the same way.  
22

23 8. As to MARQUES, the documented abuse occurred from as early as December 18, 2006,  
24 when Plaintiff MARQUES began attending GHS through March 19, 2008, when he was  
25 removed. For Thomas and Jordan V.M., it began when they first began to attend GHS in August  
26 of 2018, and lasted until they were removed in \_\_\_\_ of 2019.  
27  
28

1 9. Shortly after beginning to attend Defendant POINT QUEST, Thomas was assaulted,  
2 battered, and restrained in the same fashion as described below. He was removed on October 28,  
3 2019.

4  
5 10. No efforts were shown to protect plaintiffs from the continued abuse by the schools'  
6 administrations and, in fact, when complaints were made by plaintiff's respective parents, the  
7 administration of both schools backed their employees alleging the children were at fault and  
8 their employee's actions were necessary. Defendants GHS and POINT QUEST, and their  
9 individual staff members as particularly described below carried out these series of abusive acts  
10 upon Plaintiffs and other students, terrorizing them throughout their time at the school  
11 generating Plaintiffs' deeply held fears of reoccurrence.

12  
13 11. The harmful effects of the abuse suffered by all Plaintiffs at the hands of the staff  
14 directly abusing him have been compounded by all the Defendants' (as individually named  
15 below) willful failure to adequately report, document, respond to, and prevent the abuse. Even  
16 after each of the plaintiffs' parents approached the defendants as described below, requesting  
17 information about the abuse that would explain the children's injuries, conduct at home, and  
18 their account of events, defendant administrators at the respective schools failed to provide any  
19 meaningful information regarding what transpired in their children's classroom, covering up  
20 their conduct by providing false accounts of the events.

21  
22 12. Plaintiff MARQUES is now an adult and no longer in school. Plaintiffs Thomas and  
23 Jordan V.M. are in another school in Washington State. The alleged acts and Plaintiffs' damages  
24 are such that proceeding through due process before the Office of Administrative Hearings  
25 would be both futile and irrelevant. Plaintiffs' injuries cannot be redressed under the IDEA's  
26 due process procedures because they were assaulted and are not seeking the types of remedies  
27  
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1 available under the IDEA, rather seeking remedies for physical and emotional damages resulting  
2 from being assaulted. In addition, Plaintiff MARQUES is an adult and outside of the  
3 educational system. The same is true for Plaintiffs Thomas and Jordan V.M. who are both  
4 outside the State of California in a private religious school.  
5

6 13. Due to both the nature of Plaintiffs Thomas and Jordan V.M.'s Autism disabilities,  
7 which precluded them from reporting all of the abusive acts at the time of their events, as well  
8 the purposeful concealment of the acts by the defendants as further described below, Plaintiffs  
9 are at this point unable to describe all of the abusive acts directed at them and the exact length of  
10 time the abuse was endured. From records obtained by Plaintiffs, there were restraint incidents  
11 involving Plaintiffs expressly reserve their right to amend this Complaint to include additional  
12 facts and/or claims as discovery in this case proceeds.  
13

#### 14 PARTIES

15 14. At all relevant times, Plaintiff Luis MARQUES (legal name Luis Andreas MARQUES,  
16 hereinafter "MARQUES"), who lives in \_\_\_\_\_ was, at all relevant times herein, a minor child  
17 diagnosed as then having Oppositional Defiant Disorder and ADHD. He was a person with a  
18 disability as defined by the Unruh Act, with a mental disability as defined in Sections 12926 and  
19 12926.1 of the Government Code.  
20

21 15. At the relevant times, MARQUES had an IEP that identified predictable behaviors as  
22 disrespecting authority, tantrums, disruption of others, yelling, swearing, and kicking.  
23

24 16. The BIP mandated that staff use verbal prompts, proximity changes, and modeling  
25 behaviors sought to be learned.

26 17. Plaintiffs Thomas and Jordan V.M. were children with disabilities as defined in 20 USD  
27 1401(3), and were persons who under the Unruh Act, have a mental disability as defined in  
28

1 Sections 12926 and 12926.1 of the Government Code.

2 18. Thomas V.M. had an IEP that identified kicking, biting, throwing objects, refusal to  
3 participate in activity or follow staff directives, yelling, screaming, grunting or crying with tears  
4 as predictable behaviors.  
5

6 19. His less restrictive corrective measures are identified as monitoring for safety, one step  
7 directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach" and  
8 reapplication of original direction and follow through with original instruction.

9 20. Jordan V.M. had an IEP that identified noncompliance, physical aggression (kicking,  
10 hitting, pushing, biting, and spitting on staff and peers), yelling/screaming, inappropriate  
11 gestures and other behavior described as eating crayons and spitting water as predictable  
12 behaviors.  
13

14 21. His less restrictive corrective measures are identified as monitoring for safety, one step  
15 directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach" and  
16 reapplication of original direction and follow through with original instruction.  
17

18 22. Gloria V.M. is the adoptive mother of Thomas and Jordan V.M. and is their Guardian  
19 Ad Litem.

20 **DEFENDANTS**

21 23. Guiding Hands School Inc., 4900 Windplay Dr., El Dorado Hills, California, and POINT  
22 QUEST Inc. (located on the same premises having allegedly bought out GHS) are schools  
23 incorporated under the laws of the State of California as for-profit corporations and approved by  
24 the State of California as institutions providing for children with mental disabilities.

25 24. Presently, and at all times relevant to this Complaint, GHS was and is a business  
26 establishment within the meaning of the Unruh Civil Rights Act. Defendant GHS was an  
27 independent contractor with Elk Grove Unified Schools, Dry Creek Joint Unified Schools,  
28

1 pursuant to a written contract to perform educational services for Plaintiffs MARQUES,  
2 Thomas and Jordan V.M.

3 25. Presently, and at all times relevant to this Complaint, POINT QUEST is a business  
4 establishment within the meaning of the Unruh Civil Rights Act. Defendant POINT QUEST is  
5 an independent contractor with Rocklin Unified Schools and Placer County SELPA, pursuant to  
6 a written contract to perform educational services for Plaintiffs Thomas and Jordan V.M.

7 26. Presently, and at all times relevant to this Complaint, Defendant POINT QUEST is and a  
8 business establishment within the meaning of the Unruh Civil Rights Act. Defendant POINT  
9 QUEST is an independent contractor pursuant to a written contract to perform educational  
10 services for Plaintiffs Thomas and Jordan V.M.

11 27. Presently, and at all times relevant to this Complaint, Defendants ROCKLIN UNIFIED  
12 SCHOOLS and PLACER COUNTY SELPA are business establishments within the meaning of  
13 the Unruh Civil Rights Act.

14 28. Presently, and at all times relevant to this Complaint, the California Department of  
15 Education (CDE) a department of the State of California responsible for inspecting and  
16 certifying Non-Public Schools such as GHS and POINT QUEST. It is a business establishment  
17 within the meaning of the Unruh Civil Rights Act.

18 29. Gloria, Thomas, and Jordan V.M. have complied with the Tort Claims filing against  
19 ROCKLIN UNIFIED SCHOOL DISTRICT and PLACER COUNTY SELPA for injuries  
20 incurred on or after March \_\_\_\_, 2019 and claims herein stated against said public entities.

21 **GHS Employees:**

22 30. At all times herein mentioned, as to Plaintiff MARQUES defendants Staranne Meyers  
23 (hereinafter "MEYERS") was the principal and member of the board of GHS, Cindy Keller  
24

1 (hereinafter "KELLER") was the executive director of GHS, Phyllis RAMSEY (hereinafter  
2 "RAMSEY") was an administrator for GHS and DOE defendants were officers, directors, and  
3 administrators of defendant GHS, all of whom have authority and control over GHS's programs,  
4 and facilities, including policies, practices, procedures, programs, activities, services, training,  
5 staff; and all of whom have direct responsibility for ensuring the safety and well-being of their  
6 students, and for ensuring compliance with state and federal laws. MEYERS, KELLER,  
7 RAMSEY and DOE defendants allowed and encouraged staff at GHS to intentionally and  
8 unlawfully assault and batter Plaintiff MARQUEZ.

10 31. At all times herein mentioned, as to Plaintiffs Thomas and Jordan V.M., defendants  
11 MEYERS was the principal and member of the board of GHS, KELLER was the executive  
12 director of GHS, RAMSEY was an administrator for GHS, CHRISTENSEN was an  
13 administrator at GHS, NARAN was an administrator at GHS, and DOE defendants were  
14 officers, directors, and administrators of defendant GHS, all of whom have authority and control  
15 over GHS's programs, and facilities, including policies, practices, procedures, programs,  
16 activities, services, training, staff; and all of whom have direct responsibility for ensuring the  
17 safety and well-being of their students, and for ensuring compliance with state and federal laws.  
18 MEYERS, KELLER, CHRISTENSEN, RAMSEY, NARAN and unknown DOE defendants  
19 allowed and encouraged staff at GHS to intentionally and unlawfully assault Plaintiffs Thomas  
20 and Jordan V.N.

23 32. At all times herein mentioned, as to Plaintiff MARQUES defendants Delores ZOMBURY  
24 (hereinafter "ZOMURY"), Vince ANDERSON (hereinafter "ANDERSON"), Ashley ROBB  
25 (hereinafter "ROBB"), Cary BRUCE (hereinafter "BRUCE"), Cory QUINCEY (hereinafter  
26 "CORY"), Bryna QUINCEY (Hereinafter "BRYNA"), David Chambers (hereinafter  
27

1 "CHAMBERS") and DOE defendants were employed as teachers, and aides at GHS, who  
2 intentionally and unlawfully assaulted MARQUES and unlawfully inflicted corporal  
3 punishment upon him. They had authority and control of the classroom, including policies,  
4 practices, procedures, facilities, and activities within the classroom. They are sued in their  
5 individual capacity and in their capacity as employees of GHS.  
6

7 33. The names and capacities, whether individual, corporate, otherwise, sued herein as DOES  
8 1-10, inclusive, are presently unknown, and Plaintiff will amend the Complaint to insert them  
9 when ascertained.  
10

11 34. Plaintiff sues all Defendants in El Dorado County because all of the tortious acts occurred  
12 at 4900 Windplay Dr., El Dorado Hills, El Dorado County, California.

13 35. Plaintiff is informed and believes that each of the Defendants is the agent, ostensible  
14 agent, alter ego, master, servant, trustor, trustee, employer, employee, representative, affiliate,  
15 related entity, partner, and/or associate, or such similar capacity, of each of the other  
16 Defendants, and at all times acting and performing, or failing to act or perform, within the  
17 course and scope of each similar aforementioned capacities, and with the authorization, consent,  
18 permission or ratification of each of the other Defendants, and is personally responsible in some  
19 manner for the acts and omissions of the other Defendants in proximately causing the violations  
20 and damages complained of herein, and have participated, directed, and have ostensibly and/or  
21 directly approved or ratified each of the acts or omissions of each of the other Defendants, as  
22 herein described.  
23

24 36. Defendants GHS, POINT QUEST, ROCKLIN UNIFIED SCHOOLS AND PLACER  
25 COUNTY SELPA have failed to adequately supervise their employees that resulted in the  
26 foreseeable physical harm to Plaintiffs. Defendants had a statutory duty to ensure that staff who  
27  
28

1 came into contact with Plaintiffs would provide an environment free of abuse and neglect.

2 37. California law, including Cal Const, Art. I § 28, has long imposed on school authorities a  
3 duty to supervise at all times the conduct of children on school grounds and to enforce those  
4 rules and regulations necessary for their protection. Defendants also had a duty to use reasonable  
5 measures to protect students from foreseeable injury at the hands of third parties acting  
6 intentionally or negligently.  
7

8 38. Defendants have violated their statutory duties to Plaintiff, including their supervisory  
9 duties created under California Education Code sections 44807 and 44808.

10 39. California Penal Code section 11166 which required them to report any knowledge of a  
11 child whom the mandated reporter knows or reasonably suspects has been the victim of child  
12 abuse or neglect to the agency immediately or as soon as is practically possible by telephone and  
13 the mandated reporter shall prepare and send, fax, or electronically transmit a written follow up  
14 report thereof within 36 hours of receiving the information concerning the incident.  
15

16 40. Defendants have violated their statutory duties to Plaintiffs Thomas and Jordan V.M.,  
17 including multiple violations of California Education Code sections 56521.1 and 56521.2 which  
18 in pertinent part prohibits the use of any interventions that:  
19

20 1) cause physical pain; 2) simultaneously immobilize all four extremities, 3) apply an  
21 amount of force that exceeds that which is reasonable and necessary under the  
22 circumstances, or 4) subjects the individual to verbal abuse, ridicule, or humiliation, or  
that can be expected to cause excessive emotional trauma.

23 41. Defendants have violated their statutory duty under California Penal Code section 11165.4  
24 which prohibits “unlawful corporal punishment or injury” against a child, defined as “any cruel  
25 or inhuman corporal punishment or injury resulting in a traumatic condition.”  
26

27 42. Defendant GHS violated its statutory duty under California Education Code section 260 by  
28 failing to enact an adequate formal or informal policy to ensure that GHS provided a learning

1 environment free from discrimination based on the characteristics provided in California  
2 Education Code section 220, specifically disability.

3  
4 **OPERATIVE FACTS**

5 43. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth  
6 herein.

7 **AS TO PLAINTIFF MARQUES**

8 44. Over a one-and-one-half year period as specifically set forth below in each cause of action,  
9 Defendants ZOMURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and  
10 DOE defendants repeatedly unlawfully assaulted Plaintiff MARQUES by grabbing him, pushing  
11 or otherwise forcing him to the floor and, in painful positions, pinning all four appendages for  
12 various periods of time, immobilizing him, including as punitive measures. All were either for  
13 an unnecessarily prolonged period of time or had failed to utilize the less restrictive measures  
14 set forth in his BIP for predictable behaviors related to his disability.

15  
16 45. MARQUES was a student at GHS from 2006 to 2008. He was referred to GHS by Elk  
17 Grove School District employees.

18  
19 46. MARQUES had both an Individual Education Plan (IEP) and a Behavioral Intervention  
20 Plan (BIP) at all relevant times herein.

21 47. Defendants GHS, MEYERS, KELLER, RAMSEY, ZOMURY, ANDERSON, ROBB,  
22 BRUCE, CORY, BRYNA, CHAMBERS and DOE defendants failed to file Behavioral  
23 Emergency Reports or document injuries as required by law, so all of the dates of assaults all are  
24 unknown to MARQUES at the present time.

25  
26 48. Those that are identified occurred on Sept. 12, 2006, Dec. 18, 2006, April 16, 2007, April  
27 23, 2007, September 4, 2007, September 5, 2007, October 31, 2007, March 19, 2008, set forth  
28

1 in greater detail below.

2 49. On September 12, 2006, at 9:50 AM, guiding hands employees Kera Bruce and Ashley  
3 Rob, put MARQUES in a restraint for 12 minutes because he failed to stand appropriately and  
4 when escorted from the line he was standing in, kicked a student and Bruce. He was restrained  
5 "per CPP". Both Dolores ZOMURY and David Chapman participated in the restraint.  
6

7 50. On December 18, 2006, at 1:45 PM Ashley Rob and Kera Bruce instituted an eight minute  
8 restraint after MARQUES had been found to have a toy belonging to another student. What he  
9 was told to return the toy he began to kick his desk and a filing cabinet. He was placed in a  
10 basket restraint.  
11

12 51. On April 16, 2007 at 9 AM, MARQUES was put in a restraint for five minutes by  
13 ZOMURY, after he refused to sit down and began throwing pencils and calling children names.

14 52. On April 17, 2007, at 10 AM, MARQUES was put in a restraint by Dolores ZOMURY for  
15 five minutes after he was told to put a pointer down and had slapped it on the desk of another  
16 student. When he was directed to sit down he ran around the room and was restrained.  
17

18 53. On April 17, 2007, at 10:50 AM, MARQUES was put in a restraint for 30 minutes by  
19 Dolores ZOMURY and subsequently by a teacher's aide known only as "Laure", when  
20 MARQUES refused to give back a protein bar and be escorted to his seat. He kicked the teacher  
21 and was taken to the "corner".  
22

23 54. On April 23, 2007, at 8:35 AM, he was placed in a three minute restraint by ZOMURY  
24 after another student had pushed him, rubbing quotes not" on his jacket and in response he  
25 pushed that student down.

26 55. On April 23, 2007 11:30 AM, MARQUES was put in a restraint when he began swearing  
27 and started to run towards another student after he disregarded a request by the instructor to put  
28

- 1 his head down on his desk. The staff involved were ZOMURY and Chambers.
- 2 56. On September 5, 2007, 2 PM, MARQUES was put in a restraint by instructor Vince
- 3 Anderson, because he failed to follow directions and began yelling in the presence of his
- 4 mother.
- 5
- 6 57. On March 19, 2008, CORY, BRYNA, CHAMBERS, and DOE defendants restrained
- 7 MARQUES, forcing him to the floor and containing him in a "basket hold."
- 8 58. In this restraint, MARQUES was pushed to the ground and placed in a position for an
- 9 extended period of time, while his arms were pulled behind his back. GHS staff sat at his back
- 10 while he was in this position, increasing his pain and making it difficult for him to move.
- 11
- 12 59. This incident arose when another child assaulted MARQUES with a rock and MARQUES
- 13 defended himself.
- 14 60. When assaulted by GHS staff on March 19, 2008, MARQUES suffered bruises to his
- 15 chest, burns to his elbows, and severe soft tissue damage to his back and buttocks as a result of
- 16 these restraints.
- 17
- 18 61. MARQUES subsequently suffered panic attacks, night-terrors, startles, depression and
- 19 self-loathing as a result of these restraints.
- 20 62. MARQUES was abused on additional occasions while attending GHS. MARQUES has
- 21 attempted to get documentation from GHS as to the exact dates of the abuse, but has been
- 22 unable to obtain any response. MARQUES will seek leave to allege these dates according to
- 23 proof when this information becomes available through the discovery process.
- 24
- 25 63. At all relevant times, MARQUES.'s behaviors were known and predictable and had
- 26 previously been addressed in his Behavioral Intervention Plan.
- 27 64. The restraints imposed upon MARQUES, as herein alleged, constituted child abuse (Penal
- 28

1 Code Section 273a), corporal punishment (Penal Code Section 273d) and battery (Penal Code  
2 Sec. 242), and torture (Penal Code Section 260) prohibited by California law.

3 65. Without specific details of the restraint and measures taken, Gloria V.M. was informed  
4 that Thomas V.M. was restrained by GHS staff on the following dates:

5 66. Without specific details of the restraint and measures taken, Gloria V.M. was informed  
6 that Jordan V.M. was restrained by GHS staff on the following dates:

7 67. Thomas V.M. was again restrained by a staff member named "Jennifer" when attending  
8 POINT QUEST and, as a result, his mother immediately withdrew him from the school.  
9

10 **FIRST CAUSE OF ACTION**

11 AS TO PLAINTIFF MARQUES Against GHS and DOES 1-10  
12 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST, CDE,  
13 PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT  
(Violation of California Civil Code §§ 51, *et seq.*)

14 68. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set  
15 forth herein.

16 69. Defendants' actions described herein violated the Unruh Civil Rights Act, California Civil  
17 Code section 51.  
18

19 70. Plaintiff MARQUES was a person with disabilities as defined by Cal. Civ. Code §  
20 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. He had been diagnosed with Attention  
21 Deficit Hyperactivity Disorder and Oppositional Defiant Disorder and was limited in the major  
22 life activities of learning.

23 71. Plaintiffs THOMAS and JORDAN V.M. are persons with disabilities as defined by Cal.  
24 Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. They had been diagnosed as  
25 Autistic.  
26

27 72. Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN  
28

1 SCHOOL DISTRICT are businesses establishment covered by California Civil Code §51.

2 73. GHS, POINT QUEST and their staffs subjected Plaintiffs to physical and emotional abuse  
3 in response to behavior that was a manifestation of Plaintiffs' disabilities as described above.

4 74. GHS and POINT QUEST discriminated against Plaintiffs in that they did not provide them  
5 with full and equal enjoyment of GHS' and POINT QUEST's goods, services, facilities,  
6 privileges, advantages, or accommodations.

7 75. Plaintiffs were not provided with the services, facilities, privileges, advantages and  
8 accommodations of GHS and POINT QUEST on a basis equal to that afforded to individuals  
9 without disabilities.

10 76. The discipline methods, behavior standards and criteria employed by GHS and POINT  
11 QUEST caused Plaintiff to be subjected to physical and emotional abuse as a result of his  
12 disabilities.

13 77. GHS and POINT QUEST failed to make reasonable modifications to their educational and  
14 behavioral intervention methods and staff training that were necessary to afford students with  
15 disabilities such as Plaintiff equal access to GHS's and POINT QUEST's goods, services,  
16 facilities, privileges, advantages and accommodations.

17 78. The actions and failures to act of GHS and POINT QUEST violated Title III of the  
18 Americans with Disabilities Act of 1990, 42 U.S.C. § 121 Defendant has committed additional  
19 violations of the Unruh Civil Rights Act in that the conduct alleged herein constitutes a  
20 violation of various provisions of the Americans with Disabilities Act, 42 U.S.C. sections  
21 12181, *et seq.* As such, Defendant's actions also constituted a violation of the Unruh Act under  
22 Cal. Civ. Code § 51(f).

23 79. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED  
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1 SCHOOLS were the product of joint action between public entities and individual employees.

2 80. Defendants are liable to Plaintiffs for each and every offense for actual damages and  
3 multiple damages of up to three times the actual damages incurred, but in no case less than  
4 \$4000 per offense pursuant to California Civil Code section 52.  
5

6 81. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

7 **SECOND CAUSE OF ACTION**  
8 Violation of Cal. Civ. 51.7 Ralph Civil Rights Act

9 AS TO PLAINTIFF MARQUES Against GHS and DOES 1-10

10 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST, CDE,  
11 PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT

12 82. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth  
13 herein.  
14

15 83. Defendants in doing the acts described above violated Plaintiffs' rights under the Ralph Civil  
16 Rights Act.

17 84. Plaintiffs have the right to be free from any violence, or intimidation by threat of violence,  
18 committed against their persons or property because of any characteristic listed or defined in  
19 subdivision (b) or (e) of Section 51, because another person perceives them to have one or more of  
20 those characteristics.  
21

22 85. In committing the acts in paragraphs 50 through 68 above, all defendants have violated  
23 Plaintiffs' rights by subjecting them to violence and intimidation.

24 86. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED  
25 SCHOOLS were the product of joint action between public entities and individual employees.

26 87. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple  
27 damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense  
28

1 pursuant to California Civil Code section 52.

2 88. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

3 **FOURTH CAUSE OF ACTION**

4 For Interference with Exercise of Civil Rights in

5 Violation of California Civil Code Section 52.1

6 AS TO PLAINTIFF MARQUES Against GHS and DOES 1-10

7 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST, CDE,  
8 PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT

9 89. Plaintiff incorporate, by reference herein, all preceding paragraphs , as though fully set forth  
10 herein.

11 90. California Civil Code 52.1 provides that it is unlawful to interfere with the exercise or  
12 enjoyment of any rights under the Constitution and the laws of this state and the United States by  
13 attempted use of threats, intimidation or coercion.

14 91. The California Constitution establishes the right to a free public education to all students on  
15 an equal basis. *Butt v. California*, 4 Cal. 4th 668, 685 (1992).

16 92. California Civil Code section 43 guarantees the right of every person to be free from  
17 bodily restraint or harm and personal insult.

18 93. In doing the things herein alleged, Defendants intentionally interfered with and attempted  
19 to interfere with Plaintiff's civil rights by threats, intimidation, or coercion.

20 94. Defendants acted violently against Plaintiff, thereby preventing him from exercising his  
21 rights.

22 95. Defendants' conduct caused Plaintiff to suffer physical and emotional harm.

23 96. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED  
24 SCHOOLS were the product of joint action between public entities and individual employees.  
25  
26  
27  
28

1 97. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA  
2 AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged,  
3 was a substantial factor in causing said harm to Plaintiff.

4 98. Defendants' GHS and POINT QUEST's employees, violated Plaintiffs' rights by using a  
5 physical restraint technique that impaired Plaintiffs' ability to breathe; placing Plaintiffs in a  
6 facedown position with the pupil's hands held or restrained behind the pupil's back; and by using  
7 a behavioral restraint for longer than was necessary to contain the behavior that allegedly posed  
8 a clear and present danger of serious physical harm to the pupil or others.

9 99. Defendant employees of GHS and POINT QUEST acted with conscious disregard of  
10 Plaintiffs' rights and the fact that their conduct was certain to cause injury and/or humiliation to  
11 Plaintiffs. Plaintiffs are informed and believe that Defendant employees of GHS and POINT  
12 QUEST intended to cause fear, physical injury and/or pain and suffering to Plaintiff. Plaintiff is  
13 therefore entitled to recover punitive and exemplary damages.

14 100. Plaintiff is also entitled to actual and/or statutory damages, as well as reasonable attorneys'  
15 fees and costs as set by the Court.

16  
17  
18  
19 **FIFTH CAUSE OF ACTION**

20 (Violation of California Education Code §§ 200, 201, 220, and 260 et seq. -  
21 Against Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN  
22 SCHOOL DISTRICT MEYERS, KELLER, RAMSEY, ZOMURY, ANDERSON, ROBB,  
BRUCE, CORY, BRYNA, CHAMBERS

23 101. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set  
24 forth herein.

25 102. Plaintiffs are individuals with disabilities.

26 103. At all times relevant to this complaint, Defendant GHS was an educational institution  
27 providing education to students from kindergarten through twelfth grade and receiving financial  
28

1 assistance from the State of California.

2 104. Defendants discriminated against Plaintiff on the basis of his disability by subjecting him  
3 to physical and emotional abuse in response to disability-related behavior.

4 105. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED  
5 SCHOOLS were the product of joint action between public entities and individual employees.

6 106. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA  
7 AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged,  
8 was a substantial factor in causing said harm to Plaintiff.  
9

10 107. As a proximate cause of the actions of Defendants herein, Plaintiff is entitled to damages  
11 in an amount according to proof and reasonable attorneys' fees and costs.  
12

13 **SIXTH CAUSE OF ACTION**

(Assault and Battery Pursuant to California Penal Code Section 206)

14 i)AS TO PLAINTIFF MARQUES Against MEYERS, KELLER, RAMSEY, ZOMURY,

15 ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOES 1-10

16 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. against defendants MEYERS, KELLER,  
17 RAMSEY

18 108. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
19 herein.

20 109. CORY, BRYNA, CHAMBERS, and DOE defendants, with the intent to cause cruel or  
21 extreme pain and suffering for the purpose of persuasion, or for a sadistic purpose, inflicted  
22 significant injury upon Plaintiff by repeatedly assaulted Plaintiff throwing him to the ground and  
23 causing bruises, contusions and lacerations.

24 110. As a result, Plaintiff suffered physical and psychological injuries.

25 111. Defendants acted with the intent to cause injury and that action and intention was  
26 despicable, done with a willful and knowing disregard of the rights of Plaintiff.  
27  
28

1  
2 112. Defendants acted knowingly and aware of the probable consequences of their conduct and  
3 deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel and unjust hardship.

4 113. Defendants' conduct, assaulting a disabled child is so vile, base, and contemptible that it  
5 would be looked down upon and despised by reasonable people.

6 114. Defendants' conduct in intentionally assaulting and restraining Plaintiff knowing of his  
7 disability condition is malicious and outrageous such that exemplary damages should be awarded.

8  
9 115. WHEREFORE, Plaintiff prays for judgment for damages according to proof.

SEVENTH CAUSE OF ACTION

ASSAULT AND BATTERY

10 Against Defendants MEYERS, KELLER, RAMSEY, ZOMURY, ANDERSON, ROBB,  
11 BRUCE, CORY, BRYNA, CHAMBERS

12 116. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
13 herein.

14  
15 117. MEYERS, KELLER, RAMSEY, ZOMURY, ANDERSON, ROBB, BRUCE, CORY,  
16 BRYNA, CHAMBERS, and DOE defendants, with the intent to cause pain, the named defendants  
17 significant injury upon Plaintiffs by repeatedly assaulting Plaintiffs.

18 118. As a result, Plaintiffs suffered physical and psychological injuries.

19 119. Defendants acted with the intent to cause injury and that action and intention was despicable,  
20 done with a willful and knowing disregard of the rights of Plaintiff.

21  
22 120. Defendants acted knowingly and aware of the probable consequences of their conduct and  
23 deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel and unjust hardship.

24 121. Defendants' conduct, assaulting a disabled child is so vile, base, and contemptible that it  
25 would be looked down upon and despised by reasonable people.

26 122. Defendants' conduct in intentionally assaulting and restraining Plaintiff knowing of his  
27 disability condition is malicious and outrageous such that exemplary damages should be awarded.  
28

1 123. WHEREFORE, Plaintiff prays for judgment for damages according to proof.

2 EIGHTH CAUSE OF ACTION

3 ASSAULT AND BATTERY

4 Against Defendants MEYERS, KELLER, RAMSEY, ZOMURY, ANDERSON, ROBB,  
5 BRUCE, CORY, BRYNA, CHAMBERS

6 124. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
7 herein

8 125. In doing the things herein alleged, said defendants intended to cause, and did cause Plaintiffs  
9 MARQUEZ, Thomas and Jordan V.M. to suffer harmful or offensive contact.

10 126. As a result of said conduct of said defendants, Plaintiffs MARQUEZ, Thomas and Jordan  
11 V.M., reasonably believed that they were about to be touched in a harmful or offensive manner, and  
12 in a manner that offended a reasonable sense of personal dignity.

13 127. In doing the things herein alleged, said defendants threatened to touch MARQUEZ, Thomas  
14 and Jordan V.M. in a harmful or in an offensive manner.

15 128. At all times herein mentioned, it reasonably appeared to MARQUEZ, Thomas and Jordan  
16 V.M. that said defendants were about to carry out the threat.

17 129. At all times herein mentioned, MARQUEZ, Thomas and Jordan V.M. did not consent to the  
18 conduct of said defendants.

19 130. MARQUEZ, Thomas and Jordan V.M. suffered harm, as herein alleged.

20 131. The afore-mentioned conduct of said defendants was a substantial factor in causing  
21 MARQUEZ, Thomas and Jordan V.M. harm.

22 132. The conduct of said defendants, caused MARQUEZ, Thomas and Jordan V.M. to be  
23 apprehensive that said defendants would subject MARQUEZ, Thomas and Jordan V.M. to further  
24 intentional invasions of their right to be free from harmful and offensive contact, and demonstrated  
25 that at all times material herein, said defendants had a present ability to subject MARQUEZ,  
26  
27  
28

1 Thomas and Jordan V.M. to an intentional offensive and harmful touching.

2 133. Said defendants' unlawful conduct, as herein alleged, was a substantial factor in causing  
3 MARQUEZ, Thomas and Jordan V.M. to suffer physical and emotional injury, and future physical  
4 and emotional injury, all in an amount within the jurisdiction of the court according to proof at trial.  
5

6 134. At all relevant times, said defendants acted with conscious disregard of MARQUEZ, Thomas  
7 and Jordan V.M. rights, safety, physical well-being and feelings. Said defendants also acted with  
8 the knowledge of, or with reckless disregard for, the fact that their conduct was certain to cause  
9 injury and/or humiliation to MARQUEZ, Thomas and Jordan V.M. Said defendants intended to  
10 cause fear, physical injury and/or pain and suffering to MARQUEZ, Thomas and Jordan V.M. . By  
11 virtue of the foregoing, the estate of MARQUEZ, Thomas and Jordan V.M. are entitled to recover  
12 punitive and exemplary damages from individual and non-public entity defendants according to  
13 proof at trial. Estate of MARQUEZ, Thomas and Jordan V.M. make no claim for punitive damages  
14 against the named defendants.  
15

16  
17 **NINTH CAUSE OF ACTION**  
18 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**(ASSERTED BY Thomas and Jordan V.M. against all defendants.)**

19 135. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
20 herein

21 136. In doing the things herein alleged, the conduct of said defendants was outrageous in that it was  
22 so extreme as to exceed all bounds of that usually tolerated in a civilized community.

23 137. Said defendants inflicted actual injury and/or acted with reckless disregard of the  
24 probability that Plaintiffs Thomas and Jordan V.M. would suffer emotional distress, knowing that  
25 the child who was restrained, including Thomas and Jordan V.M., were present when the conduct  
26 occurred.  
27  
28

1 138. The conduct of said defendants, as herein alleged, was a substantial factor in causing Thomas  
2 and Jordan V.M., to suffer severe emotional distress, severe mental anguish, humiliation, pain, and  
3 physical distress.

4 139. Said defendants knew or should have known that Thomas and Jordan V.M. did not need to  
5 be, for their safety or the safety of others, and did not want to be, physically forced into prolonged  
6 prone restraints, standing, seated, settled and/or small child restraints.

7 140. Said defendants' knowing disregard for the safety of MARQUEZ, Thomas and Jordan V.M.  
8 and said defendants' deliberate failure to monitor and control their behavior towards exceptional  
9 needs students, such as Thomas and Jordan V.M. caused Thomas and Jordan V.M. to be repeatedly  
10 battered and assaulted by teachers and aides at GHS.

11 141. Said defendants' conduct was extreme and outrageous.

12 142. Said defendants acted willfully and wantonly, and with reckless disregard for plaintiffs' rights  
13 and feelings, and with deliberate indifference to the certainty that Thomas and Jordan V.M. would  
14 suffer emotional distress.

15 143. The outrageous conduct of said defendants described herein was willful and malicious and  
16 was performed with conscious disregard for the rights, safety, physical well-being and feelings of  
17 the Thomas and Jordan V.M. As a result, Thomas and Jordan V.M. are entitled to punitive or  
18 exemplary damages from individual and non-public entity defendants in a sum according to proof.

19  
20  
21  
22 **TENTH CAUSE OF ACTION**

23 **FALSE IMPRISONMENT**

24 **ASSERTED by Thomas and Jordan V.M. against all defendants**

25 144. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
26 herein

27 145. Said defendants intentionally and unlawfully exercised force, threat, implied threat of force,  
28

1 or duress, to restraint and confine Thomas and Jordan V.M. , and deprive them of their freedom of  
2 movement, when said defendants committed the acts described herein.

3 146. The unlawful restraint of Thomas and Jordan V.M. as hereinabove alleged, lasted for an  
4 appreciable amount of time.  
5

6 147. Thomas and Jordan V.M. did not knowingly or voluntarily consent to said restraints.

7 148. As a proximate cause of the restraints, Thomas and Jordan V.M. suffered actual physical and  
8 emotional harm, as herein alleged.

9 149. That the conduct of said defendants, as herein alleged, was a substantial factor in causing harm  
10 to Thomas and Jordan V.M.  
11

12 150. The outrageous conduct of the said defendants was willful and wanton, and was performed  
13 with conscious disregard for the rights, safety, physical well-being and feelings of Thomas and  
14 Jordan V.M. As a result, Thomas and Jordan V.M. are entitled to punitive or exemplary damages  
15 from individual and non-public entity defendants in a sum according to proof at time of trial.  
16

17 **ELEVENTH CAUSE OF ACTION**  
18 **NEGLIGENCE**

19 (ASSERTED BY Thomas and Jordan V.M. against all defendants.)

20 151. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
21 herein.

22 152. Said defendants breached their duty towards Thomas and Jordan V.M. by:

- 23 a. Failure to develop and maintain effective procedures governing emergency  
24 interventions;
- 25 b. Failure to obtain proper training for use of behavioral emergency  
26 interventions
- 27 c. Failure to provide oversight on the use of restraints
- 28 d. Failure to develop protocols for use of restraints
- f. Failure to prohibit restraints on physically disabled children
- g. Failure to prohibit prolonged restraints (anything over 15 minutes)
- h. Failure to require that Thomas and Jordan V.M. be released from a restraint

- 1 at the earliest possible moment.
- 2 i. Failure to prohibit the use of any restraint when contraindicated by Thomas
- 3 and Jordan V.M. medical or psychological conditions, which were known
- 4 to increase the risk of physical injury.
- 5 j. Failure to prohibit restraints that constrict the child's ability to breathe.
- 6 k. Failure to prohibit the use of multiple staff members in a restraint, which
- 7 exponentially increases the risk of injury.
- 8 l. Failure to provide for the comfort of Thomas and Jordan V.M. while in
- 9 prone restraint, including, but not limited to: offering Thomas and Jordan
- 10 V.M. fluids, bathroom use, exercise, range of motion and periodic release
- 11 of limbs.
- 12 m. Failure to require monitoring by staff of the vital signs of the child regularly
- 13 throughout the restraint.
- 14 n. Failure to require continuous, close supervision of a restraint by the HWC
- 15 trainer or another staff member who is not involved in the restraint.
- 16 o. Failure to require immediate and accurate reporting on each restraint
- 17 p. Failure to conduct a prompt and thorough review of any restraint imposed
- 18 as a means to ensure compliance with laws and policies; to ensure
- 19 continuing safety of students; and to prevent other incidents of restraint.
- 20 q. Failure to provide for:
- 21 -primary preventative measures rather than restraint;
- 22 -interventions that are less intrusive than restraints;
- 23 -effective ways to de-escalate situations to avoid restraints; and
- 24 -crisis intervention techniques that utilize alternatives to restraint.
- 25 r. Failure to provide staff with resources and tools to properly respond to the
- 26 needs of those whom they serve and to be able to identify and address the
- 27 triggers that may cause emotionally disturbed children to react in ineffectual
- 28 ways to the environment.
- s. Failure to teach students adaptive behaviors, especially involving autistic
- children who do not have effective ways of communicating and interacting
- with others.
- t. Allowing use of physical restraints on children which:
- create an aversive environment counterproductive to facilitating learning;
- cause significant physical harm, serious, foreseeable long term
- psychological impairment.
- u. Failure to provide oversight on the use of restraints to determine
- whether the intervention was necessary
- whether each restraint was implemented in a manner consistent with staff
- training, as well as school and District (SELPA) policy.
- v.
- w. Failed to document injuries caused by restraint and
- x. Failed to get medical attention for a child who was injured while in restraint.

153. As a foreseeable result of the breach of said mandatory duties by said defendants, said school staff at GHS and POINT QUEST imposed numerous and prolonged prone restraints on Thomas and

1 Jordan V.M. as hereinabove alleged, resulting in injuries to Thomas and Jordan V.M.

2 154. Breach of said mandatory duties by said defendants was a substantial factor in causing injuries  
3 Thomas and Jordan V.M.

4 155. At all times herein mentioned said defendants breached the general duties of due care of  
5 educational professionals toward Thomas and Jordan V.M. who were disabled students under their  
6 guidance and care.

7 156. At all times herein mentioned, said defendants willfully, knowingly, intentionally,  
8 maliciously, and routinely used or encouraged the use of prone and other restraints on special  
9 needs/disabled children, including Thomas and Jordan V.M. as a form of corporal punishment in  
10 violation of California law.

11 157. At all times herein mentioned, said defendants willfully, knowingly, intentionally,  
12 maliciously, and routinely used or encouraged the use of prone and other restraints, known by said  
13 defendants to be dangerous, on disabled children, including on Thomas and Jordan V.M. with  
14 reckless disregard for the safety of said children.

15 158. At all times herein mentioned, said defendants, in doing each of the afore-mentioned acts,  
16 willfully, knowingly, intentionally, maliciously, and routinely used, or encouraged the use of, prone  
17 and other restraints, to injure special needs/disabled children and to create a reign of terror within  
18 the educational environment, in place and instead of providing educational services for special  
19 needs/disabled children, for which they were hired.

20 159. As a direct and foreseeable result of the negligence of said defendants MAX suffered physical  
21 injuries and death and, Thomas and Jordan V.M. suffered physical and emotional injuries.

22 160. The negligence of said defendants was a substantial factor in causing injury Thomas and  
23 Jordan V.M. to suffer physical and emotional injuries.

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1  
2 161. By virtue of the willful and wanton, knowing, intentional, malicious acts of said defendants,  
3 and acts by said defendants that were done and acts done in reckless disregard for the safety and  
4 lives of Thomas and Jordan V.M., Thomas and Jordan V.M. are entitled to punitive damages  
5 against individual non-public entity defendants according to an award at the time of trial.

6  
7 **TWELFTH CAUSE OF ACTION**  
8 **NEGLIGENT SUPERVISION**  
9 **ASSERTED BY Thomas and Jordan V.M.**

10 162. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
11 herein.

12 163. Said defendants had a legal duty to exercise reasonable care in supervising special needs  
13 students in its respective charge pursuant to California Education Code section 44807 and may be  
14 held liable for injuries proximately caused by the failure to exercise such care.

15 164. Said defendants failed to exercise reasonable care in supervising Thomas and Jordan V.M.  
16 when they suffered the abuse as described herein.

17 165. Said defendants breached their duties to Thomas and Jordan V.M. when they failed to  
18 supervise Thomas and Jordan V.M., its administrators and staff during the abuse, and failed to  
19 ensure that GHS and POINT QUEST administrators and staff were adequately trained and provided  
20 proper supervision.

21  
22 166. As a direct and proximate result of the actions of said defendants as alleged herein, Thomas  
23 and Jordan V.M. suffered injury, and are entitled to damages according to proof.

24 **SEVENTEENTH CAUSE OF ACTION**  
25 **NEGLIGENCE PER SE**  
26 **(ASSERTED BY Thomas and Jordan V.M. and against all Defendants)**

27 167. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
28 herein

1 168. In doing the things herein alleged, said defendants violated the mandatory duties toward  
2 Thomas and Jordan V.M. as prescribed by state and federal law as referenced in each of the statutes  
3 as set forth hereinabove.

4  
5 169. Said violations of criminal and civil law were a substantial factor in bringing about the harm  
6 alleged to Thomas and Jordan V.M. as set forth hereinabove.

7 170. As a direct and proximate result of the actions of said defendants as alleged herein, Thomas  
8 and Jordan V.M. suffered injury, and are entitled to damages according to proof.

9  
10 **THIRTEENTH CAUSE OF ACTION**  
11 **TORTIOUS BREACH OF THE COVENANT**  
12 **OF GOOD FAITH AND FAIR DEALING**  
13 **(ASSERTED BY THE PLAINTIFFS MARQUES, Gloria, Thomas and Jordan V.M.**  
14 **AGAINST DEFENDANTS GHS, MEYERS, KELLER, POINT QUEST and DOE**  
15 **DEFENDANTS)**

16 171. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
17 herein.

18 172. Upon the respective enrollment of Marques, Thomas and Jordan V.M. entered into a written  
19 contract with GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants for the education  
20 of their children.

21 173. At all times herein mentioned, Marques, Thomas and Jordan V.M. were intended third party  
22 beneficiaries to the afore-mentioned contracts entered into between their parents and defendants  
23 GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants.

24 174. As a part of said contract, GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants  
25 provided each of said parents, with a copy of GHS' and POINT QUEST's parent/teacher handbook  
26 in which GHS and POINT QUEST indicated that they had a system of positive behavior  
27 intervention and support. The GHS handbook also indicated that defendant GHS would  
28 "customize" the system to support student outcomes and "interact with students in a way that

1 promotes social proficiency.” The GHS handbook states that “social competence is a skill that  
2 requires direct teaching.” . The handbook assured parents that adult behavior when correcting a  
3 child would be “calm”, “brief”, and “respectful.”

4  
5 175. As part of the contract between said parties and defendants GHS, MEYERS, KELLER,  
6 POINT QUEST and DOE defendants promised to plaintiffs, and each of them, not to discriminate  
7 in any activity against any student based on physical or mental disability and further promised to  
8 prohibit intimidation or harassment by any employee of defendant GHS, MEYERS, KELLER,  
9 POINT QUEST and DOE defendants against any student based on physical or mental disability.

10  
11 176. As part of said contract, defendants GHS, MEYERS, KELLER, POINT QUEST and DOE  
12 defendants promised to plaintiffs, and each of them, to use Positive Behavior Interventions and  
13 Supports to correct inappropriate behavior and to interact with students in a way which promotes  
14 social proficiency and academic success, using as examples “positive language and redirecting  
15 behavior using a lesson.”

16  
17 177. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST and DOE  
18 defendants promised to plaintiffs, and each of them, that adult behavior when correcting a child  
19 would be “calm, consistent, brief, immediate and respectful,” and that their behavior intervention  
20 approach involved a three step prompt “verbal, modeling, hand-over-hand.”

21  
22 178. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST and DOE  
23 defendants promised to plaintiffs, and each of them, that restraints would be imposed only if the  
24 child was a danger to himself or others so as to de-escalate and re-integrate into classroom  
25 activities; the restraints and their possible consequences for injury and death were not truthfully or  
26 accurately described to plaintiffs, and each of them, by defendants GHS, MEYERS, KELLER,  
27 POINT QUEST and DOE defendants; and the most dangerous type of restraint, a prone restraint,  
28

1 was described by defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants to  
2 each of MARQUES, Thomas and Jordan V.M's parents in innocuous language as a "neutral"  
3 restraint.

4  
5 179. Plaintiffs, and each of them, did all of the significant things that the contract required them  
6 to do.

7 180. At all times herein mentioned, all of the conditions required for defendant GHS, MEYERS,  
8 KELLER, POINT QUEST, and DOE defendants had occurred.

9 181. Defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants unfairly  
10 interfered with the rights of plaintiffs, and each of them, to receive the benefits of the contract by  
11 engaging in the conduct as herein alleged.

12  
13 182. Defendant GHS, MEYERS, KELLER, POINT QUEST's and DOE defendants' interference  
14 with the afore-mentioned benefits of the contract was done in bad faith in that defendants routinely  
15 imposed corporal punishment, in addition to dangerous prone and other restraints, on special  
16 needs/disabled children under their care.

17  
18 183. By virtue of the bad faith interference with the contract benefits by defendants GHS,  
19 MEYERS, KELLER, POINT QUEST, and DOE defendants with said plaintiffs' contractual rights,  
20 plaintiffs MARQUES, Thomas and Jordan V.M., suffered severe emotional distress.

21 184. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER, POINT  
22 QUEST, and DOE defendants with said plaintiffs' contractual rights are entitled to medical and  
23 therapeutic costs.

24  
25 185. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER, POINT  
26 QUEST, and DOE defendants with said plaintiffs' contractual rights, Gloria V.M. has suffered  
27 severe emotional and physical distress at having her respective children injured by being placed in  
28

1 prone and other restraints because of their autism and other disabilities.

2 186. By virtue of said bad faith interference with contractual benefits, all plaintiffs suffered  
3 physical and emotional injuries, and future general and special damages as herein alleged.

4 187. The bad faith interference by defendants GHS, MEYERS, KELLER, POINT QUEST, and  
5 DOE defendants was a substantial factor in causing each of the afore-mentioned injuries to  
6 plaintiffs, and each of them.

7 188. In doing the things herein alleged, defendants GHS, MEYERS, KELLER, POINT QUEST,  
8 and DOE defendants acted recklessly and with conscious disregard for the rights of plaintiffs, and  
9 each of them, willfully and maliciously exceeding the bounds of all behavior in a civilized behavior,  
10 brutalizing special needs/disabled children who had been entrusted to their care by their parents so  
11 as to receive an education that would allow their children to grow into well adjusted, well-  
12 functioning adults. As a consequence, plaintiffs, and each of them, are entitled to punitive damages.

13  
14  
15 **FOURTEENTH CAUSE OF ACTION**

16 **FRAUD**

17 Asserted by Gloria V.M.

18 189. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
19 herein.

20 190. On or about the date of enrolling their respective children in defendant GHS, defendants,  
21 GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, represented to Gloria V.M. that  
22 said defendants would not to discriminate in any activity against any student at GHS based on  
23 physical or mental disability under Title IX, Education Code section 106.8(a)(d) and 106.9.8(a); that  
24 they prohibited intimidation or harassment by any employee of defendants GHS and POINT  
25 QUEST against any student based on physical or mental disability; that said defendants and their  
26 employees would use Positive Behavior Interventions and Supports to correct inappropriate  
27  
28

1 behavior and to interact with students in a way which promotes social proficiency and academic  
2 success, including using "positive language and redirecting behavior using a lesson"; that behavior  
3 by GHS' staff when correcting a child would be "calm, consistent, brief, immediate and  
4 respectful,"; that GHS and POINT QUEST behavior intervention approaches involved a three step  
5 prompt "verbal, modeling, hand-over-hand"; and that restraints would be imposed only if the child  
6 was a danger to himself or others so as to de-escalate and re-integrate into classroom activities.  
7

8 191. On or about the dates of the respective enrollment of Thomas and Jordan V.M., at GHS and  
9 POINT QUEST, PLACER and ROCKLIN UNIFIED SCHOOLS and their employees represented  
10 to Gloria V.M that they were required to sign a form allowing defendants GHS, MEYERS,  
11 KELLER, POINT QUEST, and DOE defendants, to impose restraints on said plaintiffs' respective  
12 children, with the implied threat that if they did not sign the form their respective children would  
13 not be enrolled at GHS, which was the only school available to educate said children, and therefore,  
14 the parents would be in violation of California's mandatory education law.  
15

16 192. That the afore-mentioned representations of defendants, were false, and Gloria V.M. learned  
17 that they were false on or after November 29, 2018, upon the death of MAX, when they discovered  
18 that they did not have to allow or consent to the use of restraints against their disabled children.  
19

20 193. Said defendants knew that said representations were false when they made them, and/or said  
21 defendants made the representations recklessly and without regard for the truth of said  
22 representations.  
23

24 194.

25 195. Said defendants intended that GLORIA V.M. rely on said representations.

26 196. GLORIA V.M. reasonably relied on said representations, and enrolled their respective  
27 children at defendant GHS to receive an education.  
28

1  
2 197. GLORIA V.M. were harmed by said intentional representations, in that each of said plaintiffs  
3 suffered severe emotional distress upon seeing their respective child injured at the hands of GHS  
4 and its staff after being placed in prone and other types of restraints for known behaviors related to  
5 the child's special needs and disability, and which behaviors did not present a clear and present  
6 danger to himself or others; and further plaintiffs, Thomas and Jordan V.M. suffered severe  
7 emotional distress when MAX was injured and killed after he had a behavioral outburst as a result  
8 of being isolated from the rest of the class with no staff member near him to keep him calm.  
9

10 198. GLORIA V.M. reliance on said representations was a substantial factor in causing the severe  
11 emotional distress of said plaintiffs.

12 199.

13 200. At all relevant times, said defendants acted with conscious disregard of the rights and  
14 feelings of GLORIA V.M. , and acted with the knowledge of, or with reckless disregard for, the  
15 fact that their conduct was certain to cause severe emotional distress to said plaintiffs. By virtue  
16 of the foregoing, said plaintiffs are entitled to recover punitive and exemplary damages from  
17 non-public entity defendants according to proof at the time of trial.  
18  
19

## 20 DAMAGES

21 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

22 FIRST CAUSE OF ACTION SEVENTH CAUSE OF ACTION  
23 INTERFERENCE WITH THE EXERCISE OF CIVIL RIGHTS UNDER CALIFORNIA CIVIL  
24 CODE SECTIONS 51(b) and 51.7

- 25 1. General damages for in an amount to be determined according to proof at trial;  
26 2. Medical and future medical and related expenses in an amount to be determined by proof  
27 at trial;  
28 3. Past and future lost earnings in an amount to be determined by proof at trial;  
4. Impairment of earning capacity for in an amount to be determined by proof at trial;  
5. General damages for severe emotional and psychological distress

- 1 6. Pain and suffering;
- 2 7. Statutory damages;
- 3 8. Attorneys' fees;
- 4 8. Punitive and exemplary damages against all non-public entity Defendants
- 5 9. Costs of this action;
- 6 10. Such other and further relief as the Court deems just and proper.

7 SECOND CAUSE OF ACTION INTERFERENCE WITH PLAINTIFFS' EXERCISE OF  
8 CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1

- 9 1. General damages for in an amount to be determined according to proof at trial;
- 10 2. Medical and future medical and related expenses in an amount to be determined by proof  
11 at trial;
- 12 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 13 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 14 5. General damages for severe emotional and psychological distress
- 15 6. Pain and suffering;
- 16 7. Statutory damages;
- 17 8. Attorneys' fees;
- 18 8. Punitive and exemplary damages against all non-public entity Defendants
- 19 9. Costs of this action;
- 20 10. Such other and further relief as the Court deems just and proper.

21 THIRD CAUSE OF ACTION VIOLATIONS OF CALIFORNIA EDUCATION CODE §§ 200,  
22 201, 220 and 260, et seq.

- 23 1. General damages for in an amount to be determined according to proof at trial;
- 24 2. Medical and future medical and related expenses in an amount to be determined by proof  
25 at trial;
- 26 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 27 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 28 5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

FOURTH CAUSE OF ACTION ASSAULT AND BATTERY CONSTITUTING TORTURE

1. General damages for Pain and suffering in an amount to be determined according to proof  
at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof  
at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress

- 1 6. Pain and suffering;
- 2 7. Statutory damages;
- 3 8. Attorneys' fees;
- 4 8. Punitive and exemplary damages against all non-public entity Defendants
- 5 9. Costs of this action;
- 6 10. Such other and further relief as the Court deems just and proper.

7 ALL OTHER CAUSES OF ACTION AS PLED ABOVE.

8 Dated: August 28, 2020

9 /s/ Seth L. Goldstein  
10 Seth L. Goldstein, Lead Counsel for Plaintiffs

Seth L. Goldstein, S.B.N. 176882  
2100 Garden Road, Suite H-8  
Monterey, California, 93940  
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EL DORADO CO. SUPERIOR CT.

FILED FEB 23 2021

BY Deputy

Lead-Counsel for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO

In the Matter of:

Case No.: PC20200429

Louie Andreas MARQUES, Gloria V.M.,  
Thomas V.M., and Jordan V.M.,

FIRST AMENDED COMPLAINT  
FOR DAMAGES

Plaintiffs

vs

JURY TRIAL DEMANDED

GUIDING HANDS SCHOOL, Inc.(hereinafter  
"GHS"), Staranne MEYERS, "Star Williams";  
Cindy KELLER, David CHAMBERS, Susan  
Jane BATTLE; "Cory" DOE; Cory  
QUINCEY; Byrna QUINCEY; Noel  
COLLIER; STATE OF CALIFORNIA,  
DEPARTMENT OF EDUCATION  
(hereinafter CDE); PLACER COUNTY  
SELPA (hereinafter PLACER SELPA); Troy  
TICKLE; Kristi GREGERSON; Cara BRUCE,  
Ashley ROBB, Dolores ZUMBURY, Vince  
ANDERSON, POINT QUEST, Inc.; Nicole  
DOE; Jennifer DOE; ROCKLIN UNIFIED  
SCHOOL DISTRICT (hereinafter RUSD); ,  
Patricia DOE, David DOE, Amanda DOE, and  
Noelle DOE, Bruce CHAPMAN; and HANDLE  
WITH CARE BEHAVIOR MANAGEMENT  
SYSTEM, INC. (hereinafter HWC); and DOES  
1-100,

BY FAX

Defendants.

CMS

Exhibit B

**PARTIES**

1  
2       **1. Plaintiff Louie MARQUES** (legal name Louie Andreas MARQUES, hereinafter  
3 "MARQUES"), who lives in Sacramento was, at all relevant times herein, a minor child  
4 diagnosed as then having Oppositional Defiant Disorder and ADHD. He was a person  
5 with a disability as defined by the Unruh Act, with a mental disability as defined in Sections  
6 12926 and 12926.1 of the Government Code.  
7

8       2. At the relevant times, MARQUES had an IEP that identified predictable behaviors  
9 as disrespecting authority, tantrums, disruption of others, yelling, swearing, and kicking.  
10

11       3. The BIP mandated that staff use verbal prompts, proximity changes, and modeling  
12 behaviors sought to be learned.

13       **4. Plaintiffs Thomas and Jordan V.M.** were children with disabilities as defined in  
14 20 USD 1401(3), and were persons who under the Unruh Act, have a mental disability as  
15 defined in Sections 12926 and 12926.1 of the Government Code.

16       5. Thomas V.M. had an IEP that identified kicking, biting, throwing objects, refusal to  
17 participate in activity or follow staff directives, yelling, screaming, grunting or crying with  
18 tears as predictable behaviors.

19       6. His less restrictive corrective measures are identified as monitoring for safety, one  
20 step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach"  
21 and reapplication of original direction and follow through with original instruction.  
22

23       7. Jordan V.M. had an IEP that identified non-compliance, physical aggression  
24 (kicking, hitting, pushing, biting, and spitting on staff and peers), yelling/screaming,  
25 inappropriate gestures and other behavior described as eating crayons and spitting water  
26 as predictable behaviors.  
27  
28

1 8. His less restrictive corrective measures are identified as monitoring for safety, one  
2 step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach"  
3 and reapplication of original direction and follow through with original instruction.  
4

5 9. **Plaintiff Gloria V.M.** is the adoptive mother of Thomas and Jordan V.M. and is  
6 their Guardian Ad Litem.

7 **DEFENDANTS**

8 10. **Defendants Guiding Hands School Inc., and Point Quest Inc.** 4900 Windplay  
9 Dr., El Dorado Hills, California, located on the same premises having allegedly bought out  
10 GHS are non-public schools (hereinafter NPS) incorporated under the laws of the State  
11 of California as for-profit corporations and approved by the State of California as  
12 institutions providing for children with disabilities.  
13

14 11. Presently, and at all times relevant to this Complaint, GHS was and is a business  
15 establishment within the meaning of the Unruh Civil Rights Act. Defendant GHS was an  
16 independent contractor with Elk Grove Unified Schools, pursuant to a written contract to  
17 perform educational services for Plaintiffs MARQUES, Thomas and Jordan V.M.  
18

19 12. Presently, and at all times relevant to this Complaint, POINT QUEST is a business  
20 establishment within the meaning of the Unruh Civil Rights Act. Defendant POINT  
21 QUEST is an independent contractor with Rocklin Unified Schools and Placer County  
22 SELPA, pursuant to a written contract to perform educational services for Plaintiffs  
23 Thomas and Jordan V.M.

24 13. Presently, and at all times relevant to this Complaint, Defendant POINT QUEST  
25 is and a business establishment within the meaning of the Unruh Civil Rights Act.  
26 Defendant POINT QUEST is an independent contractor pursuant to a written contract to  
27  
28

1 perform educational services for Plaintiffs Thomas and Jordan V.M.

2 14. Presently, and at all times relevant to this **Complaint, Defendants Rocklin Unified**  
3 **Schools and Placer County SELPA** are business establishments within the meaning of  
4 the Unruh Civil Rights Act.

5 15. **Defendant California Department of Education (CDE)**, a department of the State  
6 of California Presently, was and at all times relevant to this Complaint, responsible for  
7 inspecting and certifying Non-Public Schools such as GHS and POINT QUEST. It is a  
8 business establishment within the meaning of the Unruh Civil Rights Act.

9 16. **Defendants Bruce Chapman and Handle with Care Behavior Management**  
10 **System, Inc.** Defendant, HWC was a corporation organized under the laws of the State  
11 of New York, and doing business in California, marketing a system of restraint and training  
12 California teachers to restrain special needs children in prone and other types of  
13 restraints.

14 17. At all times herein mentioned, defendant, Bruce Chapman (hereinafter  
15 "CHAPMAN"), was the agent and employee, owner, alter-ego, president and founder of  
16 HWC, who developed a patented restraint system marketed through HWC to schools in  
17 California for use on "behaviorally challenged" children in California schools, including  
18 GHS, which lead to the injuries to the student plaintiffs.

19 18. At all times herein mentioned, defendant, HWC was a corporation organized under  
20 the laws of the State of New York, and doing business in California, marketing a system  
21 of restraint and training California teachers to restrain special needs children in prone and  
22 other types of restraints.

23 At all times herein mentioned, defendant, Bruce Chapman, was the agent and  
24  
25  
26  
27  
28

1 employee, owner, alter-ego, president and founder of HWC, who developed a patented  
2 restraint system marketed through HWC to schools in California for use on "behaviorally  
3 challenged" children in California schools, including GHS, which lead to the injuries to  
4 student plaintiffs.

5  
6 19. Chapman is the inventor of the restraint system that was used at GHS. He utilized  
7 his own personal skills and experience in marketing the use of the restraint system to  
8 school districts in the State of California for use on special needs children within the state.  
9 He personally vetted and certified the instructors who taught his methods to GHS. The  
10 actual contracts were entered into with the corporation that Chapman runs out of his  
11 single family dwelling in rural upstate New York, called Handle With Care Behavioral  
12 Management Systems, Inc.. Chapman personally advocates the use of restraints within  
13 California for special needs students. Chapman personally was aware that his restraints  
14 should not be used on children who suffered the types of disabilities as were suffered by  
15 Max Benson.  
16

17 20. Chapman personally runs a website entitled "thetruthaboutpronerestraint.com".  
18 On the first page, whilst haranguing a mother who was upset because her autistic child  
19 had been put into a restraint, Chapman wrote:  
20

21 "For purpose of introduction, I am a qualified unarmed use of force/physical  
22 restraint/crisis intervention/behavior management expert and leading  
23 innovator in the creation of safe restraint including safe prone (face down)  
24 and supine (face up) physical restraining technology and training. I have  
25 offered expert testimony in many jurisdictions throughout the US, both in the  
26 prosecution of abuses and in defense of those accused of abuse...."

27 21. The webpage "the truth about Bruce Chapman". There it is written:

28 "Bruce is an expert in the fields of behavior management, unarmed  
use-of-force and the use of both physical and mechanical restraints.  
Throughout his 34 years career, Bruce has developed five separate  
proprietary training programs...He has personally produced many

1 thousands of HWC Certified Instructors and HWS users ... Bruce has been  
2 described as a true innovator in the field of physical and mechanical  
3 restraint....Bruce has testified as a use of force, behavior management,  
4 physical and mechanical restraint expert....He has worked for both Plaintiff  
5 and Defense counsels as a consultant and expert witness...."

6 22. At "Category Archives: California" one finds numerous references to incidents of  
7 violence in California schools. Chapman stated on page 3 of "truth about":

8 "If the long term goal is to prepare children to become self-sufficient,  
9 productive and law abiding citizens, we submit that expressly permitting the  
10 wanton destruction of property is completely contrary to that goal. If  
11 destroying property is unacceptable behavior by an adult it makes no sense  
12 to set a child up for failure in this way..."

13 23. Chapman states that killing of a child by a teacher would be "justifiable homicide"  
14 because the teacher would be "suppressing a riot" and "preserving peace." Chapman  
15 states that he believes that a teacher may use deadly force to protect property.

16 24. Chapman, personally, is the registrant of the handlewithcare.com website,  
17 according to "WHOIS" under which you can determine who is the owner of the website.  
18 A copy of the WHOIS page lists Chapman as the registrant, and "Registrant Organization"  
19 is left blank. The HWC website is used to promote Bruce Chapman, personally, as an  
20 expert witness across the United States, which includes California. Chapman offers his  
21 personal expertise to testify in California courts.

22 25. On July 20, 2011, Jennifer Gollan wrote an article for the Bay Citizen, a newspaper  
23 then-existing in the San Francisco area. The article was entitled "Questions are Raised  
24 on Restraint Training." The article references both Chapman and the corporation. Again,  
25 utilizing the internet, Chapman shot back a response directed to the editor of a California  
26 newspaper, posting entitled "Bay Citizen Comment 1."

27 26. In that letter, which is signed "BC", he writes:

28 "While I congratulate Bay Citizen for accomplishing the mission of kicking

1 HWC out of the {San Francisco Unified School} District, it will ultimately  
2 deprive the District's teachers and the special education students they serve  
3 from receiving the best crisis intervention training available, anywhere.....I  
4 would like to arrange a private meeting with the Board so that I may answer  
5 any questions for concerns they may have about my character and to  
6 personally demonstrate HWC's holding methods and safety protocols for  
7 them. I will travel to San Francisco at my own expense...."

9 27. In response to the Bay Citizen's editors' note back to Chapman, Chapman  
10 reiterates:

11 "I sincerely hope that the Board members who were quoted in this article  
12 can find the time to meet with me. We are sending my request directly to  
13 them."  
14

15 28. That is signed "BC". Not BC as President of HWC, rather, it is him personally.

16 29. Throughout the "back and forth" with the California editor about a California  
17 reporter who wrote a story in a California newspaper article on restraints, Chapman  
18 repeatedly signs his missives "BC", without reference to HWC. Chapman used just his  
19 initials "BC" again in another letter sent to Bay Citizen.  
20

21 "Bay Citizen Comment 2. LAST NIGHT'S 'BEHIND THE SCENES' STORY  
22 OF MS. GOLLAN'S SHENANIGANS - THE BACK AND FORTH BETWEEN  
23 HER EDITOR AND MYSELF."

24 30. Chapman states he was convinced that California Congressman George Miller's  
25 office was responsible for passing information about Chapman's activities to Jennifer  
26 Golan, the reporter at Bay Citizen.  
27

28 31. Chapman personally undertook numerous attempts to have that California

1 Congressman investigated by various entities including a complaint to a House  
2 Committee, the US Inspector General, and apparently even the entire US Congress.  
3 Chapman not only disseminated this via the internet, but he also specifically targeted  
4 California residents, including California Congressman Darrell Issa; the NDRN (National  
5 Disability Rights Network), which is active in California; P&A. (Protection and Advocacy)  
6 "all 50 states" as Chapman writes, the editor of Bay Citizen (the newspaper in California).  
7 He signed it:  
8

9 32. "Bruce Chapman,  
10 Individually and President of HWC".  
11

12 33. He also posted on the internet an article about Jennifer Gollan, this time signed as  
13 the President of HWC, and he speaks of himself "personally" and in very personal detail.  
14 Chapman writes:

15 "I have been instrumental in derailing legislative efforts by the 'restraint-free  
16 movement' in multiple States and jurisdictions...In both submissions to  
17 Congress, I cite a constellation of Federal laws, Federal Administrative case  
18 law and the laws of all fifty States, including California. {P}. The  
19 restraint-free lobbyists who operate in California and throughout the United  
20 States will apparently stoop to anything necessary to prevent me from  
21 circulating this position paper because they have absolutely no response to  
22 it. When you have been as effect as I have been in derailing the dishonest  
23 movement - organized by people with no discernible expertise on the  
24 subject of restraint - you can expect retaliation.....Did she mention that I told  
25 her I was forced to quit school to raise my 9 month old son by myself? I will  
26 let my personal history and the integrity of my life's work speak for itself."  
27  
28

1 34. Chapman also personally wrote and disseminated via the internet an article that  
2 he presented to the Virginia Board of Juvenile Justice which his personal website  
3 (aboutbrucechapman.wordpress.com) says "was widely disseminated throughout the US."

4 The website page says:

5 "Bruce's first position paper..."  
6

7 35. The paper to which it refers is an article supporting the use of force by officers in  
8 the juvenile justice system. The aboutbrucechapman.wordpress.com website apparently  
9 was established after the filing of the original complaint, when Chapman migrated some  
10 of the content of his former personal website "brucechapman.com".

11 36. Chapman also personally authored an article entitled "How HWC holding methods  
12 create a calm mind state-faster". This article is posted on website of the California  
13 Evidence Based Clearinghouse for Child Welfare (commonly known as "CEBC"). The  
14 article refers extensively to his personal expertise, including such statements as:

15 "...when I was a young psychiatric technician...I came to realize....I  
16 postulated....I also concluded....I later made a distinction between what I  
17 call....Some of the holds that I performed with adults....my  
18 observations....something I was able to do in making my own anecdotal  
19 observations. In my view...."  
20  
21

22 37. The font is changed at the bottom of the third page where the article begins to tout  
23 his "physical intervention method." At the end of the article is the first place he refers to  
24 HWC, and he only refers tangentially to the article attached to the website that is used in  
25 California as "Information and Resources for Child Professions."

26 38. Although Chapman's moving papers state that Chapman did not train any GHS  
27 staff, that is not "the truth, the whole truth, and nothing but the truth." Subsequent to the  
28

1 filing of this lawsuit, HWC scrubbed its old website and replaced it with a new version in  
2 2020.

3 39. In this new website, when navigating around, one comes to a heading entitled  
4 "WHY HWC". Within that section it states "24/7 SUPPORT," which reads:

5 "Both, (sic) you and your Licensor have direct access to the person who  
6 actually created HWC for any technical questions or "how to" questions  
7 posed to us by phone or email - 24/7...We can provide expert testimony if  
8 it is ever needed..."

9  
10 40. In the former version of the website, captured when research was being done in  
11 preparing the complaint, the HWC website contained an article entitled "Handle With Care  
12 Behavioral Management System", which was used to promote the use of their system in,  
13 inter alia, in California schools. After stating on page 2 that "Handle With Care is the life's  
14 work of Bruce Chapman" it goes on, on page 3 to reassure California schools that what  
15 they are buying is Chapman's personal experience. It states:

16 "Your program will be conducted by a Handle With Care Master Instructor.  
17 They are the best professional trainers in the country, selected from the  
18 thousands of agency instructors that Bruce has personally certified over the  
19 last 15 years." (Emphasis added.)

20  
21  
22 41. At the end of that document was a two-page document entitled "Handle With Care  
23 Program Outline" A perusal of the program outline - what the trainers were certified by  
24 Chapman personally to teach - does not appear to teach anything with respect to children  
25 with serious physical disabilities, such as Max Benson had with his fused neck, brain  
26 tumor, neurological deficits, low muscle tone and obesity, and for whom a prone hold was  
27 completely counter-indicated. If Chapman wants to take credit for personally credentialing  
28

1 "Master Instructors" who taught GHS the techniques he personally invented, then he must  
2 also accept the responsibility when his personal invention and training led directly to a  
3 student's death.

4 42. On page 9, is a one-page document entitled "About Bruce Chapman". This does  
5 not say "About HWC", rather "About Bruce Chapman." It states:

6 "Bruce Chapman is an inventor and author. ....Bruce created Handle with  
7 Care technology from 1973 to 1984 on the locked psychiatric unit of  
8 Pennsylvania Hospital in Philadelphia, where he was regarded as the  
9 hospital's authority on the prevention and management of aggression and  
10 suicide. He discovered HWC's proprietary holding method ...in 1974 at the  
11 age of 21. ...In 2001, he was granted a groundbreaking U.S. and  
12 International Patent for the PRT's integrated safeguard to prevent positional  
13 asphyxiation during a prone restraint. He created The Tension/Tension  
14 Reduction Cycle...in 1980. ...In 1995, Mr. Chapman created "Plus", a  
15 standalone defensive tactics training program ...He is a certified instructor  
16 for the New Jersey Police Training Commission and provides expert  
17 testimony on issues related to the use-of-force. ...In 1999, Bruce began a  
18 multiyear project to design and manufacture an innovative line of "modular"  
19 protection products ....The SoftCircle project has earned him 11 additional  
20 U.S. patents (9 remain pending more are expected.)"

21 43. Chapman then lists his professional affiliations, which for reasons of space are not  
22 reiterated here. From this it is clear that Chapman markets the restraint system using his  
23 own personal experience within the state of California. And from all of the foregoing, it  
24 can be seen that Chapman has sufficient minimum contacts, so as to purposefully avail  
25  
26  
27  
28

1 himself of the forum benefits with respect to the use of his restraint system.

2 44. Chapman originally started HWC as a "dba" in or around 1984. A true and correct  
3 copy of the original trademark for "PRIMARY RESTRAINT TECHNIQUE (PRT)", indicates  
4 a date of first use in Commerce in 1984.  
5

6 45. The trademark was registered in 1999.

7 46. Prior to the trademark being registered under the name of Bruce Chapman dba,  
8 HWC was organized under the laws of New York.

9 47. Pages from the New York Department of State show that the initial Department of  
10 State filing date was February 23, 1998.

11 48. The trademark was not cancelled for eight years after Chapman incorporated.

12 49. In 2006, the corporation filed for the trademark.  
13

14 50. The New York Department of State shows that the Chief Executive Officers are  
15 "Bruce Chapman & Hilary Adler" and that the Principal Executive Office is 184 McKinstry  
16 Rd., Gardiner, New York 12525.

17 51. Page 2 shows that the corporation has 200 shares of no par value stock.

18 52. The location of the "principal executive office" is a single-family residence in rural  
19 upstate New York.  
20

21 53. This is a single family dwelling located in an area zoned for rural agriculture.

22 54. It is not zoned for commercial purposes.

23 55. The residence and adjoining property is own by Bruce Chapman and Hilary Adler  
24 - the two Chief Executive Officers of the corporation.

25 56. The assessment rolls from [ulstercountyny.gov](http://ulstercountyny.gov) website, showing on page 1, the  
26 value of the residence assessed at \$503,000 and on page 2, the value of the adjacent  
27 vacant land at \$111,000.  
28

1 57. Chapman and Adler, who doubles not only as the Vice-President of HWC, both  
2 also as Chapman's and HWC's attorney, have filed lawsuits attempting to recover  
3 monetary damages on behalf of Bruce Chapman, personally, that normally would be  
4 assets of the corporation.

5  
6 58. In a published decision at 546 F.3d 230 (2008), one finds Chapman as the lead  
7 plaintiff, and HWC is also a plaintiff.

8 59. Chapman filed suit against numerous public and private officials - including such  
9 people as the former president of Cornell University - in his individual capacity. The first  
10 paragraph of the court's opinion (page 3 states:

11 "Plaintiffs-appellants Bruce Chapman and Handle With Care Behavior  
12 Management System, Inc., (collectively "HWC") market a training program  
13 ("Handle With Care") that teaches individuals a safe technique for  
14 restraining people."  
15

16 60. In another action, Bruce Chapman filed a qui tam action against various institutions  
17 and individuals in connection with his competitor who was the subject of the previous  
18 lawsuit.

19 61. Again he is represented by Adler.

20  
21 62. It is unknown if the complaint bore a different caption, but the court's opinion lists  
22 the plaintiff as "United States ex rel. Bruce Chapman." Throughout the complaint, the  
23 court refers to Chapman and HWC as one and the same entity.

24 "Plaintiff-Relator Bruce Chapman ('plaintiff' or 'Chapman') filed this qui tam  
25 action ...." "Chapman is president of Handle With Care Behavior  
26 Management System, Inc, ("HWC"), which markets and sells behavior  
27 management and physical restraint programs. In the earlier action noted  
28

1 above, he asserted federal copyright and antitrust causes of action...This  
2 alleged policy of requiring all New York State child care providers and  
3 juvenile facilities to use the {competitor's} method focused Chapman's HWC  
4 method from the market...." .... "In the present lawsuit, Chapman alleges  
5 five types of false claims....Chapman alleges....Finally, Chapman  
6 alleges...."  
7

8 63. The action was dismissed.

9 64. It can be seen that on Bruce Chapman's website  
10 (truthaboutbrucechapman.wordpress.com) there is yet another indication that Chapman  
11 does not regard HWC to be an entity separate from himself.  
12

13 65. The GAO Investigation 2 comment posted by Chapman, where he writes on page  
14 one:

15 "We allege that Congressman Miller, individually or through his staff, have,  
16 for a second time, abused his/their authority and have engaged in acts of  
17 harassment and predatory conduct against a United States citizen, small  
18 business owner and taxpayer for having the audacity to exercise my first  
19 amendment right to comment on proposed (H.R. 1381) legislation."  
20 (Emphasis added.)  
21

22 66. Chapman identifies the corporation as belonging to him. He continues:

23 "...Gollan's request for an interview and Gollen's final work product, best  
24 characterized as a smear attack is another example of the continued  
25 harassment and retaliation to which I and my company have been subjected  
26 to by Congressman Miller...."  
27  
28

## JURISDICTION AND VENUE

67. Gloria, Thomas, and Jordan V.M. have complied with the Tort Claims filing against CDE, ROCKLIN UNIFIED SCHOOL DISTRICT and PLACER COUNTY SELPA on March 24, 2019 for injuries and claims herein stated against said public entities.

68. Plaintiffs sue all Defendants in El Dorado County because all of the tortious acts occurred at 4900 Windplay Dr., El Dorado Hills, El Dorado County, California.

69. Plaintiffs are informed and believe that each of the LEA and NPS Defendants is the agent, ostensible agent, alter ego, master, servant, trustor, trustee, employer, employee, representative, affiliate, related entity, partner, and/or associate, or such similar capacity, of each of the other Defendants, and at all times acting and performing, or failing to act or perform, within the course and scope of each similar aforementioned capacities, and with the authorization, consent, permission or ratification of each of the other Defendants, and is personally responsible in some manner for the acts and omissions of the other Defendants in proximately causing the violations and damages complained of herein, and have participated, directed, and have ostensibly and/or directly approved or ratified each of the acts or omissions of each of the other Defendants, as herein described.

### GHS EMPLOYEES:

70. At all times herein mentioned, as to Plaintiff MARQUES defendants Staranne Meyers (hereinafter "MEYERS") was the principal and member of the board of GHS, Cindy Keller (hereinafter "KELLER") was the executive director of GHS, Phyllis RAMSEY (hereinafter "RAMSEY") was an administrator for GHS and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs,

1 activities, services, training, staff; and all of whom have direct responsibility for ensuring  
2 the safety and well-being of their students, and for ensuring compliance with state and  
3 federal laws. MEYERS, KELLER, RAMSEY and DOE defendants allowed and  
4 encouraged staff at GHS to intentionally and unlawfully assault and batter Plaintiff  
5 MARQUES.  
6

7 71. At all times herein mentioned, as to Plaintiffs Thomas and Jordan V.M., defendants  
8 MEYERS was the principal and member of the board of GHS, KELLER was the executive  
9 director of GHS, RAMSEY was an administrator for GHS, CHRISTENSEN was an  
10 administrator at GHS, NARAN was an administrator at GHS, and DOE defendants were  
11 officers, directors, and administrators of defendant GHS, all of whom have authority and  
12 control over GHS's programs, and facilities, including policies, practices, procedures,  
13 programs, activities, services, training, staff; and all of whom have direct responsibility for  
14 ensuring the safety and well-being of their students, and for ensuring compliance with  
15 state and federal laws. MEYERS, KELLER, CHRISTENSEN, RAMSEY, NARAN, Noel  
16 COLLIER (Special Education Teacher), and unknown DOE defendants allowed and  
17 encouraged staff at GHS to intentionally and unlawfully assault Plaintiffs Thomas and  
18 Jordan V.N.  
19

20  
21 72. At all times herein mentioned, as to Plaintiff MARQUES defendants Delores  
22 ZOMBURY (hereinafter "ZOMBURY"), Vince ANDERSON (hereinafter "ANDERSON"),  
23 Ashley ROBB (hereinafter "ROBB"), Cary BRUCE (hereinafter "BRUCE"), Cory QUINCEY  
24 (hereinafter "CORY"), Bryna QUINCEY (Hereinafter "BRYNA"), David Chambers  
25 (hereinafter "CHAMBERS") Kera BRUCE (Hereinafter "BRUCE" , and DOE defendants  
26 were employed as teachers, and aides at GHS, who intentionally and unlawfully assaulted  
27 MARQUES and unlawfully inflicted corporal punishment upon him. They had authority and  
28

1 control of the classroom, including policies, practices, procedures, facilities, and activities  
2 within the classroom. They are sued in their individual capacity and in their capacity as  
3 employees of GHS.

4 73. The names and capacities, whether individual, corporate, otherwise, sued herein  
5 as DOES 1-100, inclusive, are presently unknown, and Plaintiff will amend the Complaint  
6 to insert them when ascertained.  
7

#### 8 **POINT QUEST EMPLOYEES**

9 74. Bill Tollestrup, Interim Director of El Dorado Hills, Bill Weber, Director of El Dorado  
10 Hills, Nicole DOE, Jennifer DOE and DOE defendants were employed as administrators,  
11 teachers, and aides at POINT QUEST, who intentionally and unlawfully assaulted Jordan  
12 V.M. and unlawfully inflicted corporal punishment upon him. They had authority and  
13 control of the classroom, including policies, practices, procedures, facilities, and activities  
14 within the classroom. They are sued in their individual capacity and in their capacity as  
15 employees of POINT QUEST.  
16

#### 17 **ROCKLIN UNIFIED SCHOOL EMPLOYEES**

18 75. Kristain ROYER, Program Specialist, Beth DAVIDSON, Assistant Director of  
19 Special Education, and DOE defendants were employed as administrators at RUSD, who  
20 knew or should have known that POINT QUEST staff had intentionally and unlawfully  
21 assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had  
22 authority and oversight control of the program at POINT QUEST school, including policies,  
23 practices, procedures, facilities, and activities within the classroom. They are sued in their  
24 individual capacity and in their capacity as employees of RUSD.  
25  
26  
27  
28

**PLACER COUNTY SELPA EMPLOYEES**

76. Kristi Gregersen, Program Specialist, Troy TICKLE, Director, Placer County SELPA, and DOE defendants were employed as administrators at Placer County SELPA, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

77. Plaintiffs MARQUES, Thomas, and Jordan V.M. were placed at GHS and POINT QUEST by their respective school districts after representations were made to the minors' parents about both schools special skills, facilities and safe environment appropriate for their children. The placement was pursuant to each student's Individual Education Plan (IEP), as a result of their diagnosis as children with disabilities, because the school districts themselves determined they were unable to provide a Free Appropriate Public Education.

78. Defendants GHS, POINT QUEST, ROCKLIN UNIFIED SCHOOLS AND PLACER COUNTY SELPA have failed to adequately supervise their employees that resulted in the foreseeable physical harm to Plaintiffs. Defendants had a statutory duty to ensure that staff who came into contact with Plaintiffs would provide an environment free of abuse and neglect.

79. California law, including Cal Const, Art. I § 28, has long imposed on school authorities a duty to supervise at all times the conduct of children on school grounds and to enforce those rules and regulations necessary for their protection. Defendants also had

1 a duty to use reasonable measures to protect students from foreseeable injury at the  
2 hands of third parties acting intentionally or negligently.

3 80. Defendants have violated their statutory duties to Plaintiff, including their  
4 supervisory duties created under California Education Code sections 44807 and 44808.

5  
6 81. California Penal Code section 11166 which required them to report any knowledge  
7 of a child whom the mandated reporter knows or reasonably suspects has been the victim  
8 of child abuse or neglect to the agency immediately or as soon as is practically possible  
9 by telephone and the mandated reporter shall prepare and send, fax, or electronically  
10 transmit a written follow up report thereof within 36 hours of receiving the information  
11 concerning the incident.

12  
13 82. Defendants have violated their statutory duties to Plaintiffs Thomas and Jordan  
14 V.M., including multiple violations of California Education Code sections 56521.1 and  
15 56521.2 (and its predecessor legislation) that, in pertinent parts, suggest alternative  
16 interventions and/or prohibits the use of any interventions that:

17 1) cause physical pain; 2) simultaneously immobilize all four extremities, 3) apply  
18 an amount of force that exceeds that which is reasonable and necessary under the  
19 circumstances, or 4) subjects the individual to verbal abuse, ridicule, or humiliation,  
20 or that can be expected to cause excessive emotional trauma.

21  
22 83. Defendants have violated their statutory duty under California Penal Code section  
23 11165.4 which prohibits "unlawful corporal punishment or injury" against a child, defined  
24 as "any cruel or inhuman corporal punishment or injury resulting in a traumatic condition."

25 84. Defendants GHS and POINT QUEST violated its statutory duty under California  
26 Education Code section 260 by failing to enact an adequate formal or informal policy to  
27 ensure that GHS and POINT QUEST provided a learning environment free from  
28

1 discrimination based on the characteristics provided in California Education Code section  
2 220, specifically disability.

3 85. GHS was closed in 2018 after the State of California revoked their license to  
4 operate following the death of student Max Benson who was subjected to a restraint that  
5 killed him.  
6

7 86. After GHS was closed it was, allegedly, sold to POINT QUEST, and Jordan V.M.  
8 then attended Defendant POINT QUEST.

9 87. When POINT QUEST took over GHS facilities and educational duties, Gloria V.M.  
10 was assured by the Rocklin Unified School staff, Placer County SELPA, and POINT  
11 QUEST staff, expressly, by inference, or omission, that the previous policies and practices  
12 employed by GHS were, not only no longer employed, she was assured that the GHS  
13 employees were gone and would not be rehired at POINT QUEST.  
14

15 88. For more than a decade, the California Department of Education ("CDE"), school  
16 districts, county offices of education and Special Education Plan Areas ("SELPAs") -have  
17 known that using restraints on students, particularly in response to predictable  
18 disability-related behavior, carries serious risks for their physical and emotional health.  
19

20 89. There have been many reports of students with behavioral challenges dying or  
21 sustaining serious injuries due to abusive use of restraint systems, such as the Handle  
22 With Care system developed by Defendant Bruce Chapman. It is also well-known that  
23 restraints are disproportionately used against children with disabilities.

24 90. Despite this knowledge, nonpublic schools like Defendants GHS and POINT  
25 QUEST and their respective staffs continued to use such restraints frequently, in response  
26 to predictable behaviors that did not constitute an immediate or serious threat to the  
27 student or others, for extended periods of time, on students whose disabilities elevated  
28

1 the risk of using restraints, and with excessive force.

2 91. They could do so because the CDE, and the Local Educational Agency (LEA)  
3 Defendants abdicated their responsibilities to monitor and supervise GHS and POINT  
4 QUEST and ensure their compliance with state and federal laws prohibiting discrimination  
5 and the improper use of restraints.  
6

7 92. The CDE continued to certify GHS continues to currently certify POINT QUEST,  
8 and the LEA Defendants continued to contract with and place their students with  
9 disabilities in the respective schools.

10 93. Plaintiff students with developmental and other disabilities whose local educational  
11 agencies placed them at GHS and POINT QUEST pursuant to their Individualized  
12 Education Plans ("IEP")  
13

14 94. Each Plaintiff Student attended GHS sometime between 2006 and 2018, where its  
15 administrators and staff subjected them to excessive and harmful restraints and other  
16 aggressive physical interventions in response to known behaviors associated with their  
17 disabilities, resulting in physical and emotional abuse and injury, and in the case of one  
18 other student, death.  
19

20 95. GHS was, and POINT QUEST is, a nonpublic school-as that term is defined in Cal.  
21 Ed. Code § 56034-which contracted with the LEA Defendants to provide special education  
22 services to public school students with disabilities in exchange for state and federal  
23 educational funding.

24 96. As required by law, GHS and POINT QUEST entered into Master Contracts with  
25 the LEA's, as well as an Individual Services Agreement for each student placed there.

26 97. Each of the Plaintiff Students' IEP's included a Behavioral Intervention Plan ("BIP")  
27 which described the student's known disability-related behaviors and the intervention  
28

1 strategies and positive behavioral supports educators should use to prevent or respond  
2 to those behaviors.

3 98. Despite legal requirements (discussed below) and Defendants' knowledge of the  
4 dangers associated with restraints to students' physical and emotional health, GHS and  
5 POINT QUEST administrators and employees engaged in a policy and practice of using  
6 restraints as a substitute for the positive interventions detailed in the students' BIPs in  
7 response to predictable behavior that did not pose a clear and present danger of serious  
8 physical harm to the student or others. GHS and POINT QUEST used restraints against  
9 its students frequently, for periods of time that were longer than necessary, and with  
10 excessive force.  
11

12 99. These restraints-including prone restraints- in which the child is placed face down  
13 on the floor with one or more adults applying force from above to keep the child's body  
14 immobile-frequently lasted over an hour.  
15

16 100. Some students were restrained frequently, sometimes more than one time each  
17 day.  
18

19 101. The restraints and other aggressive physical interventions inflicted by GHS and  
20 POINT QUEST caused the Plaintiff Students physical and emotional injuries.

21 102. GHS and POINT QUEST administrators were not only aware of the abuse, but  
22 encouraged it and were responsible for the school's policy and practice of using frequent,  
23 excessive, harmful and lengthy restraints as a substitute for positive behavioral  
24 interventions in response to students' predictable, disability-related behaviors.

25 103. GHS and POINT QUEST did not provide adequate training in positive behavioral  
26 interventions, instead relying on Defendant Bruce Chapman's patented restraint system,  
27 Handle With Care Behavioral Management Systems, Inc. which was associated with  
28

1 numerous abuses by educational professionals on students with behavioral challenges.

2 104. GHS and POINT QUEST training in the HWC method ignored requirements of  
3 state and federal law and did not provide proper warnings regarding the risks associated  
4 with restraining students or safeguards for monitoring and responding to signs of distress.

5 105. Moreover, GHS and POINT QUEST took significant measures to conceal its  
6 illegal use of restraints and child abuse from parents and the LEAs with which it  
7 contracted by failing to provide required reports to the parents and the State of California.

8 106. Prior to the children's placement, GHS misrepresented orally, in enrollment  
9 documents, and in the children's IEP that the school focused on proactive, positive  
10 behavioral interventions and that corrective behavior would be "calm", "brief", and  
11 "respectful."  
12

13 107. The HWC Intervention Statement that parents had to sign as part of the enrollment  
14 packet emphasized positive intervention and "the 3-step prompt" which "entails a verbal  
15 request, followed by staff modeling and finally hand over hand with children who may have  
16 difficulty following directions . . . ." It represented that a restraint would be used only if the  
17 child appeared to be "a physical danger to themselves or others around them".  
18

19 108. GHS used the HWC terminology in referring to the most dangerous restraint-a  
20 prone restraint-as a "neutral" restraint. *Id.* These misrepresentations were repeated in the  
21 students' BIPs developed as part of the IEP process and a part of the agreement between  
22 the parent/student, the LEA, and GHS.  
23

24 109. When a student was restrained, GHS frequently failed to complete a Behavioral  
25 Emergency Report ("BER"), place the BER in the student's file, send it to the LEA, or  
26 notify the student's parent, as required by law and GHS's Master Contracts with the LEAs.  
27 Nor did GHS administrators or staff report the regular, systemic child abuse they  
28

1 witnessed and participated in at the school, despite the requirement to do so as mandated  
2 reporters.

3 110. GHS's use of restraints was so excessive in frequency, duration, force and  
4 purpose that any educator or monitoring official who personally observed the program for  
5 more than an hour would realize that the school and its staff had exceeded the legal  
6 bounds for emergency interventions and were physically abusing their students.  
7

8 111. However, the CDE and the LEAs ignored their legal duties to supervise and  
9 monitor the program and continued to place vulnerable students in its care. GHS would  
10 still be abusing its students were it not for the death of a 13-year-old student who died  
11 after he was held in a prone restraint for almost two hours on November 28, 2018.  
12

13 112. Plaintiff Thomas V.M. was a disabled student, placed at GHS on August 6, 2018,  
14 because of his diagnosis of his disability. Plaintiff Jordan V.M. was a disabled student,  
15 placed at GHS on February 22, 2018, because of his diagnosis of disability. All plaintiffs,  
16 due to their disabilities, engaged in repetitive conduct that disrupted their educational  
17 experience and abilities.

18 113. Because of the disruption that affected other students, they were frequently placed  
19 in such restraints, which included but was not limited to, the imposition of restraints that  
20 constituted physical child abuse, battery, and assault.  
21

22 114. Referring to these restraints as though they were normal and accepted ways of  
23 disciplining plaintiffs, Defendant administrators, teachers and assisting staff, as  
24 individually identified below, preyed on plaintiffs because of their disability related conduct.

25 115. These defendants assaulted and battered plaintiffs repeatedly rather than  
26 following the BIPs.  
27

28 116. The LEA administrators, by and through their agency with GHS and POINT

1 QUEST administrators tasked unqualified and inadequately trained staff with supervising  
2 plaintiff students, who often failed to document and report incidents of abuse, and failed  
3 to take reasonable steps to prevent further abuse.

4 117. Plaintiffs, like other students who were also subjected to such conduct, would  
5 attend class and when a student acted consistently with their predictable behaviors stated  
6 in their individual BIP and IEP (and the reason(s) why they were placed at GHS and  
7 POINT QUEST) or failed to follow the directions of the GHS and POINT QUEST staff as  
8 individually described below, they would be subjected to painful restraints in full and open  
9 view of fellow students.  
10

11 118. Each plaintiff had specific conduct that was identified in their BIP, for which, each  
12 plaintiff had a set of less restrictive measures to be taken before a "hands on" physical  
13 intervention such as painful restraints would be exercised.  
14

15 119. Plaintiffs witnessed other students treated in the same way in their respective  
16 classes. The observation of such torturous conduct to other students and themselves  
17 caused Plaintiffs who were in their immediate presence to experience fear and anxiety  
18 such that they were terrorized in anticipation that they too might be hurt in the same way.  
19

20 120. As to MARQUES, the documented abuse occurred from as early as December 18,  
21 2006, when Plaintiff MARQUES began attending GHS through March 19, 2008, when he  
22 was removed. For Thomas and Jordan V.M., it began when they first began to attend  
23 GHS on February 22, 2018, and lasted until they were removed on or about the end of  
24 December 2018 and officially, in January, 2019.

25 121. Shortly after beginning to attend Defendant POINT QUEST, Thomas was  
26 assaulted, battered, and restrained in the same fashion as described below. He was  
27 removed on or about October 1, 2019 and officially October 22, 2019.  
28

1 122. No efforts were shown to protect plaintiffs from the continued abuse by the  
2 schools' administrations and, in fact, when complaints were made by plaintiff's respective  
3 parents, the administration of both schools backed their employees alleging the children  
4 were at fault and their employee's actions were necessary.

5  
6 123. Defendants GHS and POINT QUEST, and their individual staff members as  
7 particularly described below, carried out these series of abusive acts upon Plaintiffs and  
8 other students, terrorizing them throughout their time at the school generating Plaintiffs'  
9 deeply held fears of reoccurrence.

10 124. The harmful effects of the abuse suffered by all Plaintiffs at the hands of the staff  
11 directly abusing him have been compounded by all the Defendants' (as individually named  
12 below) willful failure to adequately report, document, respond to, and prevent the abuse.

13  
14 125. Even after each of the plaintiffs' parents approached the defendants as described  
15 below, requesting information about the abuse that would explain the children's injuries,  
16 conduct at home, and their account of events, defendant administrators at the respective  
17 schools failed to provide any meaningful information regarding what transpired in their  
18 children's classroom, covering up their conduct by providing false accounts of the events.

19  
20 126. Plaintiffs Thomas and Jordan V.M. are in another school in Washington State.

21 127. The alleged acts and Plaintiffs' damages are such that proceeding through due  
22 process before the Office of Administrative Hearings would be both futile and irrelevant.

23 128. Plaintiffs' injuries cannot be redressed under the IDEA's due process procedures  
24 because they were assaulted and are not seeking the types of remedies available under  
25 the IDEA, rather seeking remedies for physical and emotional damages resulting from  
26 being assaulted.

27  
28 129. In addition, Plaintiff MARQUES is an adult and outside of the educational system.

1 130. The same is true for Plaintiffs Thomas and Jordan V.M. who are both outside the  
2 State of California in a private religious school.

3 131. From records to be obtained by Plaintiffs, there were restraint incidents involving  
4 Plaintiffs and they expressly reserve their right to amend this Complaint to include  
5 additional facts and/or claims as discovery in this case proceeds.  
6

### 7 **OPERATIVE FACTS**

8 132. Plaintiffs incorporate by reference all preceding paragraphs as though fully set  
9 forth herein.

### 10 **AS TO PLAINTIFF MARQUES**

11 133. Over a one-and-one-half year period as specifically set forth below in each cause  
12 of action, Defendants ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA,  
13 CHAMBERS and DOE defendants repeatedly unlawfully assaulted Plaintiff MARQUES  
14 by grabbing him, pushing or otherwise forcing him to the floor and, in painful positions,  
15 pinning all four appendages for various periods of time, immobilizing him, including as  
16 punitive measures. All were either for an unnecessarily prolonged period of time or had  
17 failed to utilize the less restrictive measures set forth in his BIP for predictable behaviors  
18 related to his disability.  
19

20  
21 134. MARQUES was a student at GHS from 2006 to 2008. He was referred to GHS  
22 by Elk Grove School District employees.

23 135. MARQUES had both an Individual Education Plan (EIP) and a Behavioral  
24 Intervention Plan (BIP) at all relevant times herein.

25 136. Defendants GHS, MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON,  
26 ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOE defendants failed to file  
27  
28

1 Behavioral Emergency Reports or document injuries as required by law, so all of the dates  
2 of assaults all are unknown to MARQUES at the present time.

3 137. Those that are identified occurred on Sept. 12, 2006, Dec. 18, 2006, April 16,  
4 2007, April 23, 2007, September 4, 2007, September 5, 2007, October 31, 2007, March  
5 19, 2008, set forth in greater detail below.

6  
7 138. On September 12, 2006, and 9:50 AM, guiding hands employees Kera Bruce  
8 and Ashley Robb, put MARQUES in a restraint for 12 minutes because he failed to stand  
9 appropriately and when escorted from the line he was standing in, kicked a student and  
10 Bruce. He was restrained "per CPI". Both Dolores ZOMBURY and David Chapman  
11 participated in the restraint.

12  
13 139. On December 18, 2006, at 1:45 PM Ashley Robb and Kera Bruce instituted an  
14 eight minute restraint after MARQUES had been found to have a toy belonging to another  
15 student. What he was told to return the toy he began to kick his desk and a filing cabinet.  
16 He was placed in a basket restraint.

17  
18 140. On April 16, 2007 at 9 AM, MARQUES was put in a restraint for five minutes by  
19 ZOMBURY, after he refused to sit down and began throwing pencils and calling children  
20 names.

21  
22 141. On April 17, 2007, at 10 AM, MARQUES was put in a restraint by Dolores  
23 ZOMBURY for five minutes after he was told to put a pointer down and had slapped it on  
24 the desk of another student. When he was directed to sit down he ran around the room  
25 and was restrained.

26  
27 142. On April 17, 2007, at 10:50 AM, MARQUES was put in a restraint for 30 minutes  
28 by Dolores ZOMBURY and subsequently by a teacher's aide known only as "Laure", when  
MARQUES refused to give back a protein bar and be escorted to his seat. He kicked the

1 teacher and was taken to the "corner".

2 143. On April 23, 2007, at 8:35 AM, he was placed in a three minute restraint by  
3 ZOMBURY after another student had pushed him, rubbing "snot" on his jacket and in  
4 response he pushed that student down.  
5

6 144. On April 23, 2007 11:30 AM, MARQUES was put in a restraint when he began  
7 swearing and started to run towards another student after he disregarded a request by the  
8 instructor to put his head down on his desk. The staff involved were ZOMBURY and  
9 Chambers.

10 145. On September 5, 2007, 2 PM, MARQUES was put in a restraint by instructor  
11 Vince Anderson, because he failed to follow directions and began yelling in the presence  
12 of his mother.  
13

14 146. On March 19, 2008, CORY, BRYNA, CHAMBERS, and DOE defendants  
15 restrained MARQUES, forcing him to the floor and containing him in a "basket hold."

16 147. In this restraint, MARQUES was pushed to the ground and placed in a position  
17 for an extended period of time, while his arms were pulled behind his back. GHS staff sat  
18 at his back while he was in this position, increasing his pain and making it difficult for him  
19 to move.  
20

21 148. This incident arose when another child assaulted MARQUES with a rock and  
22 MARQUES defended himself.

23 149. When assaulted by GHS staff on March 19, 2008, MARQUES suffered bruises  
24 to his chest, burns to his elbows, and severe soft tissue damage to his back and buttocks  
25 as a result of these restraints.  
26

27 150. MARQUES subsequently suffered panic attacks, night-terrors, startles,  
28 depression and self-loathing as a result of these restraints.

1 151. MARQUES was abused on additional occasions while attending GHS.

2 152. MARQUES will seek leave to allege these dates according to proof when further  
3 information becomes available through the discovery process.

4 153. At all relevant times, MARQUES.'s behaviors were known and predictable and  
5 had previously been addressed in his Behavioral Intervention Plan.

6 154. The restraints imposed upon MARQUES, as herein alleged, constituted child  
7 abuse (Penal Code Section 273a), corporal punishment (Penal Code Section 273d) and  
8 battery (Penal Code Sec. 242), and torture (Penal Code Section 260) prohibited by  
9 California law.  
10

11 **AS TO THOMAS V.M.**

12 155. Thomas V.M. was restrained by GHS and POINT QUEST staff on many  
13 occasions the precise details are neither known to he nor his mother at this time, other  
14 than that described below.

15 156. Thomas V.M. was restrained by a staff member named "Jennifer" when  
16 attending POINT QUEST and, as a result, his mother immediately withdrew him from the  
17 school.  
18

19 157. Thomas V.M. knows that "Jennifer" was a previous staff member at GHS.

20 **AS TO JORDAN V.M.**

21 158. Jordan V.M. was restrained by GHS staff on many occasions the precise details  
22 are neither known to he nor his mother at this time.  
23

24  
25 **FIRST CAUSE OF ACTION**

26 AS TO PLAINTIFF MARQUES Against GHS;  
27 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
28

1 CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
2 and DOES 1-100.  
3 (Violation of California Civil Code §§ 51, *et seq.*)

4 159. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though  
5 fully set forth herein.

6 160. Plaintiff MARQUES was a person with disabilities as defined by Cal. Civ. Code  
7 § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. He had been diagnosed with  
8 Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder and was limited  
9 in the major life activities of learning.

10 161. Plaintiffs THOMAS and JORDAN V.M. are persons with disabilities as defined  
11 by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. They had been  
12 diagnosed as Autistic.

13 162. Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND  
14 ROCKLIN SCHOOL DISTRICT are businesses establishment covered by California Civil  
15 Code §51.

16 163. GHS, POINT QUEST and their staffs subjected Plaintiffs to physical and  
17 emotional abuse in response to behavior that was a manifestation of Plaintiffs' disabilities  
18 as described above.

19 164. GHS and POINT QUEST discriminated against Plaintiffs in that they did not  
20 provide them with full and equal enjoyment of GHS' and POINT QUEST's goods,  
21 services, facilities, privileges, advantages, or accommodations.

22 165. Plaintiffs were not provided with the services, facilities, privileges, advantages  
23 and accommodations of GHS and POINT QUEST on a basis equal to that afforded to  
24 individuals without disabilities.

25 166. The discipline methods, behavior standards and criteria employed by GHS and  
26  
27  
28

1 POINT QUEST caused Plaintiff to be subjected to physical and emotional abuse as a  
2 result of his disabilities.

3 167. GHS and POINT QUEST failed to make reasonable modifications to their  
4 educational and behavioral intervention methods and staff training that were necessary  
5 to afford students with disabilities such as Plaintiff equal access to GHS's and POINT  
6 QUEST's goods, services, facilities, privileges, advantages and accommodations.

7  
8 168. The actions and failures to act of GHS and POINT QUEST violated Title III of  
9 the Americans with Disabilities Act of 1990, 42 U.S.C. § 121 Defendant has committed  
10 additional violations of the Unruh Civil Rights Act in that the conduct alleged herein  
11 constitutes a violation of various provisions of the Americans with Disabilities Act, 42  
12 U.S.C. sections 12181, *et seq.* As such, Defendant's actions also constituted a violation  
13 of the Unruh Act under Cal. Civ. Code § 51(f).

14  
15 169. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN  
16 UNIFIED SCHOOLS were the product of joint action between public entities and  
17 individual employees.

18 170. Defendants are liable to Plaintiffs for each and every offense for actual  
19 damages and multiple damages of up to three times the actual damages incurred, but  
20 in no case less than \$4000 per offense pursuant to California Civil Code section 52.

21 171. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

22  
23 **SECOND CAUSE OF ACTION**

24 Violation of Cal. Civ. 51.7 Ralph Civil Rights Act  
25 AS TO PLAINTIFF MARQUES Against GHS and DOES 1-100;  
26 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT

27 172. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though  
28

1 fully set forth herein.

2 173. Defendants in doing the acts described above violated Plaintiffs' rights under  
3 the Ralph Civil Rights Act.

4 174. Plaintiffs have the right to be free from any violence, or intimidation by threat of  
5 violence, committed against their persons or property because of any characteristic listed  
6 or defined in subdivision (b) or (e) of Section 51, because another person perceives them  
7 to have one or more of those characteristics.

8 175. In committing the acts described above, all defendants have violated Plaintiffs'  
9 rights by subjecting them to violence and intimidation.

10 176. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN  
11 UNIFIED SCHOOLS were the product of joint action between public entities and  
12 individual employees.

13 177. Defendants are liable to Plaintiffs for each and every offense for actual  
14 damages and multiple damages of up to three times the actual damages incurred, but  
15 in no case less than \$4000 per offense pursuant to California Civil Code section 52.

16 178. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

17  
18  
19  
20 **THIRD CAUSE OF ACTION**

21 For Interference with Exercise of Civil Rights in  
22 Violation of California Civil Code Section 52.1

23 AS TO PLAINTIFF MARQUES Against GHS and DOES 1-100  
24 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
25 CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT

26 179. Plaintiff incorporate, by reference herein, all preceding paragraphs , as though  
27 fully set forth herein.

28 180. California Civil Code 52.1 provides that it is unlawful to interfere with the

1 exercise or enjoyment of any rights under the Constitution and the laws of this state and  
2 the United States by attempted use of threats, intimidation or coercion.

3 181. The California Constitution establishes the right to a free public education to all  
4 students on an equal basis. *Butt v. California*, 4 Cal. 4th 668, 685 (1992).

5 182. California Civil Code section 43 guarantees the right of every person to be free  
6 from bodily restraint or harm and personal insult.

7 183. In doing the things herein alleged, Defendants intentionally interfered with and  
8 attempted to interfere with Plaintiff's civil rights by threats, intimidation, or coercion.

9 184. Defendants acted violently against Plaintiff, thereby preventing him from  
10 exercising his rights.

11 185. Defendants' conduct caused Plaintiff to suffer physical and emotional harm.

12 186. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN  
13 UNIFIED SCHOOLS were the product of joint action between public entities and  
14 individual employees.

15 187. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY  
16 SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as  
17 herein alleged, was a substantial factor in causing said harm to Plaintiff.

18 188. Defendants' GHS and POINT QUEST's employees, violated Plaintiffs' rights by  
19 using a physical restraint technique that impaired Plaintiffs' ability to breathe; placing  
20 Plaintiffs in a face down position with the pupil's hands held or restrained behind the  
21 pupil's back; and by using a behavioral restraint for longer than was necessary to contain  
22 the behavior that allegedly posed a clear and present danger of serious physical harm  
23 to the pupil or others.

24 189. Defendant employees of GHS and POINT QUEST acted with conscious  
25  
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27  
28

1 disregard of Plaintiffs' rights and the fact that their conduct was certain to cause injury  
2 and/or humiliation to Plaintiffs. Plaintiffs are informed and believe that Defendant  
3 employees of GHS and POINT QUEST intended to cause fear, physical injury and/or  
4 pain and suffering to Plaintiff. Plaintiff is therefore entitled to recover punitive and  
5 exemplary damages.  
6

7 190. Plaintiff is also entitled to actual and/or statutory damages, as well as  
8 reasonable attorneys' fees and costs as set by the Court.

9 **FOURTH CAUSE OF ACTION**

10 (Violation of California Education Code §§ 200, 201, 220, and 260 et seq. -  
11 Against Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND  
12 ROCKLIN SCHOOL DISTRICT MEYERS, KELLER, RAMSEY, ZOMBURY,  
ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS

13 191. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
14 fully set forth herein.

15 192. Plaintiffs are individuals with disabilities.

16  
17 193. At all times relevant to this complaint, Defendant GHS was an educational  
18 institution providing education to students from kindergarten through twelfth grade and  
19 receiving financial assistance from the State of California.

20 194. Defendants discriminated against Plaintiff on the basis of his disability by  
21 subjecting him to physical and emotional abuse in response to disability-related behavior.

22 195. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN  
23 UNIFIED SCHOOLS were the product of joint action between public entities and  
24 individual employees.  
25  
26  
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1        196. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY  
2 SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as  
3 herein alleged, was a substantial factor in causing said harm to Plaintiff.

4        197. As a proximate cause of the actions of Defendants herein, Plaintiff is entitled  
5 to damages in an amount according to proof and reasonable attorneys' fees and costs.  
6

7  
8                                    **FIFTH CAUSE OF ACTION**

9                    Assault and Battery Pursuant to California Penal Code Section 206  
10                   AS TO PLAINTIFF MARQUES Against MEYERS, KELLER, RAMSEY, ZOMBURY,  
11                   ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOES 1-100  
12                   AS TO PLAINTIFFS THOMAS AND JORDAN V.M.  
13                   against defendants MEYERS, KELLER, RAMSEY, "JENNIFER"DOE

14        198. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
15 fully set forth herein.

16        199. MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON, ROBB, BRUCE,  
17 CORY, BRYNA, CHAMBERS, MEYERS, KELLER, RAMSEY, "JENNIFER"DOE, and  
18 DOE defendants , with the intent to cause cruel or extreme pain and suffering for the  
19 purpose of persuasion, or for a sadistic purpose, inflicted significant injury upon Plaintiff  
20 by repeatedly assaulted Plaintiff throwing him to the ground and causing bruises,  
21 contusions and lacerations.

22        200. As a result, Plaintiff suffered physical and psychological injuries.

23        201. Defendants acted with the intent to cause injury and that action and intention  
24 was despicable, done with a willful and knowing disregard of the rights of Plaintiff.  
25  
26  
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28

1       202. Defendants acted knowingly and aware of the probable consequences of their  
2 conduct and deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel  
3 and unjust hardship.

4       203. Defendants' conduct, assaulting a disabled child is so vile, base, and  
5 contemptible that it would be looked down upon and despised by reasonable people.  
6

7       204. Defendants' conduct in intentionally assaulting and restraining Plaintiff knowing  
8 of his disability condition is malicious and outrageous such that exemplary damages  
9 should be awarded.

10       205. WHEREFORE, Plaintiff prays for judgment for damages according to proof.

11                               **SIXTH CAUSE OF ACTION**

12                               **ASSAULT AND BATTERY**

13  
14       i)Against Defendants MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON,  
15 ROBB, BRUCE, CORY, BRYNA, CHAMBERS, "JENNIFER DOE," DOES 1-100

16       206. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
17 fully set forth herein.

18       207. In doing the things herein alleged, said defendants intended to cause, and did  
19 cause Plaintiffs MARQUEZ, Thomas and Jordan V.M. to suffer harmful or offensive  
20 contact.  
21

22       208. As a result of said conduct of said defendants, Plaintiffs MARQUEZ, Thomas  
23 and Jordan V.M., reasonably believed that they were about to be touched in a harmful  
24 or offensive manner, and in a manner that offended a reasonable sense of personal  
25 dignity.  
26  
27  
28

1       209. In doing the things herein alleged, said defendants threatened to touch  
2       MARQUEZ, Thomas and Jordan V.M. in a harmful or in an offensive manner.

3       210. At all times herein mentioned, it reasonably appeared to MARQUEZ, Thomas  
4       and Jordan V.M. that said defendants were about to carry out the threat.

5       211. At all times herein mentioned, MARQUEZ, Thomas and Jordan V.M. did not  
6       consent to the conduct of said defendants.

7       212. MARQUEZ, Thomas and Jordan V.M. suffered harm, as herein alleged.

8       213. The aforementioned conduct of said defendants was a substantial factor in  
9       causing MARQUEZ, Thomas and Jordan V.M. harm. The conduct of said defendants,  
10       caused MARQUEZ, Thomas and Jordan V.M. to be apprehensive that said defendants  
11       would subject MARQUEZ, Thomas and Jordan V.M. to further intentional invasions of  
12       their right to be free from harmful and offensive contact, and demonstrated that at all  
13       times material herein, said defendants had a present ability to subject MARQUEZ,  
14       Thomas and Jordan V.M. to an intentional offensive and harmful touching.

15       214. Said defendants' unlawful conduct, as herein alleged, was a substantial factor  
16       in causing MARQUEZ, Thomas and Jordan V.M. to suffer physical and emotional injury,  
17       and future physical and emotional injury, all in an amount within the jurisdiction of the  
18       court according to proof at trial.

19       215. At all relevant times, said defendants acted with conscious disregard of  
20       MARQUEZ, Thomas and Jordan V.M. rights, safety, physical well-being and feelings.  
21       Said defendants also acted with the knowledge of, or with reckless disregard for, the fact  
22       that their conduct was certain to cause injury and/or humiliation to MARQUEZ, Thomas  
23       and Jordan V.M. Said defendants intended to cause fear, physical injury and/or pain and  
24       suffering to MARQUEZ, Thomas and Jordan V.M.

## Exhibit B

1 physically forced into prolonged prone restraints, standing, seated, settled and/or small  
2 child restraints.

3 222. Said defendants' knowing disregard for the safety of Gloria, Thomas and Jordan  
4 V.M. and said defendants' deliberate failure to monitor and control their behavior towards  
5 exceptional needs students, such as Gloria, Thomas and Jordan V.M. caused Thomas  
6 and Jordan V.M. to be repeatedly battered and assaulted by teachers and aides at GHS  
7 and POINT QUEST.  
8

9 223. Said defendants' conduct was extreme and outrageous.  
10

11 224. Said defendants acted willfully and wantonly, and with reckless disregard for  
12 plaintiffs' rights and feelings, and with deliberate indifference to the certainty that Gloria,  
13 Thomas and Jordan V.M. would suffer emotional distress.

14 225. The outrageous conduct of said defendants described herein was willful and  
15 malicious and was performed with conscious disregard for the rights, safety, physical  
16 well-being and feelings of the Gloria, Thomas and Jordan V.M. As a result, Gloria,  
17 Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual  
18 and non-public entity defendants in a sum according to proof.  
19

#### 20 EIGHTH CAUSE OF ACTION

#### 21 FALSE IMPRISONMENT CONSPIRACY TO COMMIT FALSE IMPRISONMENT

22 ASSERTED by Thomas and Jordan V.M. against all individual defendants  
23

24 226. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
25 fully set forth herein.

26 227. Said defendants, in concert with one another, did intentionally and unlawfully,  
27 and conspired to, exercise force, threat, implied threat of force, or duress, to restraint and  
28

1 confine Thomas and Jordan V.M. , and deprive them of their freedom of movement,  
2 when said defendants committed the acts described herein.

3 228. Thomas and Jordan V.M. did not knowingly or voluntarily consent to said  
4 restraints.

5 229. As a proximate cause of the restraints, Thomas and Jordan V.M. suffered actual  
6 physical and emotional harm, as herein alleged.

7 230. That the conduct of said defendants, as herein alleged, was a substantial factor  
8 in causing harm to Thomas and Jordan V.M.

9 231. The outrageous conduct of the said defendants was willful and wanton, and was  
10 performed with conscious disregard for the rights, safety, physical well-being and feelings  
11 of Thomas and Jordan V.M.

12 232. As a result, Thomas and Jordan V.M. are entitled to punitive or exemplary  
13 damages from individual and non-public entity defendants in a sum according to proof  
14 at time of trial.

## 15 NINTH CAUSE OF ACTION

### 16 NEGLIGENCE

17 Asserted by Gloria, Thomas and Jordan V.M. against all defendants.

18 233. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as  
19 though fully set forth herein.

20 234. Said defendants breached their duty towards Thomas and Jordan V.M. by:

21 a. Failure to develop and maintain effective procedures governing emergency  
22 interventions;

23 b. Failure to obtain proper training for use of behavioral emergency interventions  
24  
25  
26  
27  
28

- c. Failure to provide oversight on the use of restraints
- d. Failure to develop protocols for use of restraints
- f. Failure to prohibit restraints on physically disabled children
- g. Failure to prohibit prolonged restraints (anything over 15 minutes)
- h. Failure to require that Thomas and Jordan V.M. be released from a restraint at the earliest possible moment.
- i. Failure to prohibit the use of any restraint when contraindicated by Thomas and Jordan V.M. medical or psychological conditions, which were known to increase the risk of physical injury.
- j. Failure to prohibit restraints that constrict the child's ability to breathe.
- k. Failure to prohibit the use of multiple staff members in a restraint, which exponentially increases the risk of injury.
- l. Failure to provide for the comfort of Thomas and Jordan V.M. while in prone restraint, including, but not limited to: offering Thomas and Jordan V.M. fluids, bathroom use, exercise, range of motion and periodic release of limbs.
- m. Failure to require monitoring by staff of the vital signs of the child regularly throughout the restraint.
- n. Failure to require continuous, close supervision of a restraint by the HWC trainer or another staff member who is not involved in the restraint.
- o. Failure to require immediate and accurate reporting on each restraint
- p. Failure to conduct a prompt and thorough review of any restraint imposed as a means to ensure compliance with laws and policies; to ensure continuing safety of students; and to prevent other incidents of restraint.
- q. Failure to provide for:

- primary preventative measures rather than restraint;
- interventions that are less intrusive than restraints;
- effective ways to de-escalate situations to avoid restraints; and
- crisis intervention techniques that utilize alternatives to restraint.

r. Failure to provide staff with resources and tools to properly respond to the needs of those whom they serve and to be able to identify and address the triggers that may cause emotionally disturbed children to react in ineffectual ways to the environment.

s. Failure to teach students adaptive behaviors, especially involving autistic children who do not have effective ways of communicating and interacting with others.

t. Allowing use of physical restraints on children which:

- create an aversive environment counterproductive to facilitating learning;
- cause significant physical harm, serious, foreseeable long term psychological impairment.

u. Failure to provide oversight on the use of restraints to determine

- whether the intervention was necessary
- whether each restraint was implemented in a manner consistent with staff training, as well as school and District (SELPA) policy.

v. Failed to document injuries caused by restraint and

w. Failed to get medical attention for a child who was injured while in restraint.

235. As a foreseeable result of the breach of said mandatory duties by said defendants, said school staff at GHS and POINT QUEST imposed numerous and prolonged prone restraints on Thomas and Jordan V.M. as hereinabove alleged, resulting in injuries to Thomas and Jordan V.M.

236. Breach of said mandatory duties by said defendants was a substantial factor

1 in causing injuries Thomas and Jordan V.M.

2 237. At all times herein mentioned said defendants breached the general duties  
3 of due care of educational professionals toward Thomas and Jordan V.M. who were  
4 disabled students under their guidance and care.

5 238. At all times herein mentioned, said defendants willfully, knowingly,  
6 intentionally, maliciously, and routinely used or encouraged the use of prone and  
7 other restraints on special needs/disabled children, including Thomas and Jordan  
8 V.M. as a form of corporal punishment in violation of California law.

9 239. At all times herein mentioned, said defendants willfully, knowingly,  
10 intentionally, maliciously, and routinely used or encouraged the use of prone and  
11 other restraints, known by said defendants to be dangerous, on disabled children,  
12 including on Thomas and Jordan V.M. with reckless disregard for the safety of said  
13 children.

14 240. At all times herein mentioned, said defendants, in doing each of the afore-  
15 mentioned acts, willfully, knowingly, intentionally, maliciously, and routinely used, or  
16 encouraged the use of, prone and other restraints, to injure special needs/disabled  
17 children and to create a reign of terror within the educational environment, in place  
18 and instead of providing educational services for special needs/disabled children, for  
19 which they were hired.

20 241. As a direct and foreseeable result of the negligence of said defendants  
21 learning of the death of Max Benson, plaintiffs and their own injuries Thomas and  
22 Jordan V.M. suffered physical and emotional injuries.

23 242. The negligence of said defendants was a substantial factor in causing injury  
24 Thomas and Jordan V.M. to suffer physical and emotional injuries.  
25  
26  
27  
28

1       243. By virtue of the willful and wanton, knowing, intentional, malicious acts of  
2       said defendants, and acts by said defendants that were done and acts done in  
3       reckless disregard for the safety and lives of Thomas and Jordan V.M., Thomas and  
4       Jordan V.M. are entitled to punitive damages against individual non-public entity  
5       defendants according to an award at the time of trial.  
6

7                               **TENTH CAUSE OF ACTION**

8                               **NEGLIGENT SUPERVISION**  
9                               **ASSERTED BY Thomas and Jordan V.M.**

10       244. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as  
11       though fully set forth herein.

12       245. Said defendants had a legal duty to exercise reasonable care in supervising  
13       special needs students in its respective charge pursuant to California Education Code  
14       section 44807 and may be held liable for injuries proximately caused by the failure to  
15       exercise such care.  
16

17       246. Said defendants failed to exercise reasonable care in supervising Thomas  
18       and Jordan V.M. when they suffered the abuse as described herein.

19       247. Said defendants breached their duties to Thomas and Jordan V.M. when  
20       they failed to supervise Thomas and Jordan V.M., its administrators and staff during  
21       the abuse, and failed to ensure that GHS and POINT QUEST administrators and staff  
22       were adequately trained and provided proper supervision.  
23

24       248. As a direct and proximate result of the actions of said defendants as alleged  
25       herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages  
26       according to proof.

27                               **ELEVENTH CAUSE OF ACTION**  
28

249. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein

251. Said violations were of the statutes specifically intended to protect the class of plaintiff and to prevent the injuries as those described herein.

253. As a direct and proximate result of the actions of said defendants as alleged herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages according to proof.

**Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing  
Asserted by the Plaintiffs Marques, Gloria, Thomas and Jordan V.M. Against  
Defendants GHS, Meyers, Keller, Point Quest,  
Troy Tickle, Kristi Gregerson, Cara Bruce and Doe Defendants**

255. Upon the respective enrollment of Marques, Thomas and Jordan V.M. entered into a written contract with GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce and DOE defendants for the education of their children.

1       256. At all times herein mentioned, Marques, Thomas and Jordan V.M. were  
2 intended third party beneficiaries to the afore-mentioned contracts entered into  
3 between their parents and defendants GHS, MEYERS, KELLER, POINT QUEST,  
4 Troy Tickle, Kristi Gregerson, Cara Bruce and DOE defendants.

5  
6       257. As a part of said contract, GHS, MEYERS, KELLER, POINT QUEST, Troy  
7 Tickle, Kristi Gregerson, Cara Bruce and DOE defendants provided each of said  
8 parents, with a copy of GHS' and POINT QUEST's parent/teacher handbook in which  
9 GHS and POINT QUEST indicated that they had a system of positive behavior  
10 intervention and support. The GHS handbook also indicated that defendant GHS  
11 would "customize" the system to support student outcomes and "interact with  
12 students in a way that promotes social proficiency." The GHS handbook states that  
13 "social competence is a skill that requires direct teaching." The handbook assured  
14 parents that adult behavior when correcting a child would be "calm", "brief", and  
15 "respectful."  
16

17       258. As part of the contract between said parties and defendants GHS, MEYERS,  
18 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
19 defendants promised to plaintiffs, and each of them, not to discriminate in any activity  
20 against any student based on physical or mental disability and further promised to  
21 prohibit intimidation or harassment by any employee of defendant GHS, MEYERS,  
22 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
23 defendants against any student based on physical or mental disability.  
24

25       259. As part of said contract, defendants GHS, MEYERS, KELLER, POINT  
26 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to  
27 plaintiffs, and each of them, to use Positive Behavior Interventions and Supports to  
28

1 correct inappropriate behavior and to interact with students in a way which promotes  
2 social proficiency and academic success, using as examples "positive language and  
3 redirecting behavior using a lesson."

4 260. As part of said contract defendants GHS, MEYERS, KELLER, POINT  
5 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to  
6 plaintiffs, and each of them, that adult behavior when correcting a child would be  
7 "calm, consistent, brief, immediate and respectful," and that their behavior intervention  
8 approach involved a three step prompt "verbal, modeling, hand-over-hand."  
9

10 261. As part of said contract defendants GHS, MEYERS, KELLER, POINT  
11 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to  
12 plaintiffs, and each of them, that restraints would be imposed only if the child was a  
13 danger to himself or others so as to de-escalate and re-integrate into classroom  
14 activities; the restraints and their possible consequences for injury and death were not  
15 truthfully or accurately described to plaintiffs, and each of them, by defendants GHS,  
16 MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and  
17 DOE defendants; and the most dangerous type of restraint, a prone restraint, was  
18 described by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
19 Gregerson, Cara Bruce, and DOE defendants to each of MARQUES, Thomas and  
20 Jordan V.M's parents in innocuous language as a "neutral" restraint.  
21

22 262. Plaintiffs, and each of them, did all of the significant things that the contract  
23 required them to do.  
24

25 263. At all times herein mentioned, all of the conditions required for defendant  
26 GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce,  
27 and DOE defendants had occurred.  
28

1        264. Defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
2 Gregerson, Cara Bruce, and DOE defendants unfairly interfered with the rights of  
3 plaintiffs, and each of them, to receive the benefits of the contract by engaging in the  
4 conduct as herein alleged.

5  
6        265. Defendant GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
7 Gregerson, Cara Bruce, and DOE defendants' interference with the afore-mentioned  
8 benefits of the contract was done in bad faith in that defendants routinely imposed  
9 corporal punishment, in addition to dangerous prone and other restraints, on special  
10 needs/disabled children under their care.

11  
12        266. By virtue of the bad faith interference with the contract benefits by  
13 defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson,  
14 Cara Bruce, and DOE defendants with said plaintiffs' contractual rights, plaintiffs  
15 MARQUES, Thomas and Jordan V.M., suffered severe emotional distress.

16  
17        267. By virtue of the bad faith interference by defendants GHS, MEYERS,  
18 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
19 defendants with said plaintiffs' contractual rights are entitled to medical and  
20 therapeutic costs.

21        268. By virtue of the bad faith interference by defendants GHS, MEYERS,  
22 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
23 defendants with said plaintiffs' contractual rights, Gloria V.M. and the beneficiaries of  
24 said contract, Thomas and Jordan V.M., have suffered severe emotional and physical  
25 distress at having the respective children injured by being placed in prone and other  
26 restraints because of their autism and other disabilities.

27  
28        269. By virtue of said bad faith interference with contractual benefits, all plaintiffs

1 suffered physical and emotional injuries, and future general and special damages as  
2 herein alleged.

3 270. The bad faith interference by defendants GHS, MEYERS, KELLER, POINT  
4 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants was a  
5 substantial factor in causing each of the afore-mentioned injuries to plaintiffs, and  
6 each of them.  
7

8 271. In doing the things herein alleged, defendants GHS, MEYERS, KELLER,  
9 POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants  
10 acted recklessly and with conscious disregard for the rights of plaintiffs, and each of  
11 them, willfully and maliciously exceeding the bounds of all behavior in a civilized  
12 behavior, brutalizing special needs/disabled children who had been entrusted to their  
13 care by their parents so as to receive an education that would allow their children to  
14 grow into well adjusted, well-functioning adults. As a consequence, plaintiffs, and  
15 each of them, are entitled to punitive damages.  
16

17 **THIRTEENTH CAUSE OF ACTION**

18 **FRAUD**

19 Asserted by Gloria V.M.

20 272. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as  
21 though fully set forth herein.

22 273. On or about the date of enrolling their respective children in defendant GHS,  
23 defendants, GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants,  
24 represented to Gloria V.M. that said defendants would not to discriminate in any  
25 activity against any student at GHS based on physical or mental disability under Title  
26 IX, Education Code section 106.8(a)(d) and 106.9.8(a); that they prohibited  
27  
28

1 intimidation or harassment by any employee of defendants GHS and POINT QUEST  
2 against any student based on physical or mental disability; that said defendants and  
3 their employees would use Positive Behavior Interventions and Supports to correct  
4 inappropriate behavior and to interact with students in a way which promotes social  
5 proficiency and academic success, including using "positive language and redirecting  
6 behavior using a lesson"; that behavior by GHS' staff when correcting a child would be  
7 "calm, consistent, brief, immediate and respectful,"; that GHS and POINT QUEST  
8 behavior intervention approaches involved a three step prompt "verbal, modeling,  
9 hand-over-hand"; and that restraints would be imposed only if the child was a danger  
10 to himself or others so as to de-escalate and re-integrate into classroom activities.  
11

12 274. On or about the dates of the respective enrollment of Thomas and Jordan  
13 V.M., at GHS and POINT QUEST, PLACER and ROCKLIN UNIFIED SCHOOLS and  
14 their employees represented to Gloria V.M that they were required to sign a form  
15 allowing defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants,  
16 to impose restraints on said plaintiffs' respective children, with the implied threat that if  
17 they did not sign the form their respective children would not be enrolled at GHS,  
18 which was the only school available to educate said children, and therefore, the  
19 parents would be in violation of California's mandatory education law.  
20

21 275. That the afore-mentioned representations of defendants, were false, and  
22 Gloria V.M. learned that they were false on or after November 29, 2018, upon the  
23 death of MAX, when they discovered that they did not have to allow or consent to the  
24 use of restraints against their disabled children.  
25

26 276. Said defendants knew that said representations were false when they made  
27 them, and/or said defendants made the representations recklessly and without regard  
28

1 for the truth of said representations.

2 277. Said defendants intended that GLORIA V.M. rely on said representations.

3  
4 278. GLORIA V.M. reasonably relied on said representations, and enrolled their  
5 respective children at defendant GHS to receive an education.

6 279. GLORIA V.M. were harmed by said intentional representations, in that each  
7 of said plaintiffs suffered severe emotional distress upon seeing their respective child  
8 injured at the hands of GHS and its staff after being placed in prone and other types  
9 of restraints for known behaviors related to the child's special needs and disability,  
10 and which behaviors did not present a clear and present danger to himself or others;  
11 and further plaintiffs, Thomas and Jordan V.M. suffered severe emotional distress  
12 when MAX was injured and killed after he had a behavioral outburst as a result of  
13 being isolated from the rest of the class with no staff member near him to keep him  
14 calm.  
15

16 280. GLORIA V.M. reliance on said representations was a substantial factor in  
17 causing the severe emotional distress of said plaintiffs.  
18

19 281. At all relevant times, said defendants acted with conscious disregard of the  
20 rights and feelings of GLORIA V.M. , and acted with the knowledge of, or with  
21 reckless disregard for, the fact that their conduct was certain to cause severe  
22 emotional distress to said plaintiffs. By virtue of the foregoing, said plaintiffs are  
23 entitled to recover punitive and exemplary damages from non-public entity defendants  
24 according to proof at the time of trial.  
25

26 **DAMAGES**

27 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:  
28

**FIRST CAUSE OF ACTION**

**INTERFERENCE WITH THE EXERCISE OF  
CIVIL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTIONS 51*et seq***

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
- 10 Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SECOND CAUSE OF ACTION INTERFERENCE WITH PLAINTIFFS' EXERCISE OF  
CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 51.7**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;

- 1 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 2 5. General damages for severe emotional and psychological distress
- 3 6. Pain and suffering;
- 4 7. Statutory damages;
- 5 8. Attorneys' fees;
- 6 9. Punitive and exemplary damages against all non-public entity Defendants
- 7 10. Costs of this action;
- 8 11. Such other and further relief as the Court deems just and proper.

10 **THIRD CAUSE OF ACTION**

11 **INTERFERENCE WITH PLAINTIFFS' EXERCISE OF**  
12 **CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1**

- 13 1. General damages for in an amount to be determined according to proof at trial;
- 14 2. Medical and future medical and related expenses in an amount to be determined
- 15 by proof at trial;
- 16 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 17 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 18 5. General damages for severe emotional and psychological distress
- 19 6. Pain and suffering;
- 20 7. Statutory damages;
- 21 8. Attorneys' fees;
- 22 9. Punitive and exemplary damages against all non-public entity Defendants
- 23 10. Costs of this action;
- 24 11. Such other and further relief as the Court deems just and proper.

**FOURTH CAUSE OF ACTION**

**VIOLATIONS OF CALIFORNIA EDUCATION CODE  
§§ 200, 201, 220 and 260, et seq.**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FIFTH CAUSE OF ACTION**

**ASSAULT AND BATTERY CONSTITUTING TORTURE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress

6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SIXTH CAUSE OF ACTION**

**ASSAULT AND BATTERY**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SEVENTH CAUSE OF ACTION**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

- 1 1. General damages for Pain and suffering in an amount to be determined according
- 2 to proof at trial;
- 3 2. Medical and future medical and related expenses in an amount to be determined
- 4 by proof at trial;
- 5 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 6 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 7 5. General damages for severe emotional and psychological distress
- 8 6. Pain and suffering;
- 9 7. Statutory damages;
- 10 8. Attorneys' fees;
- 11 9. Punitive and exemplary damages against all non-public entity Defendants
- 12 10. Costs of this action;
- 13 11. Such other and further relief as the Court deems just and proper.

#### 16 **EIGHTH CAUSE OF ACTION**

##### 17 **FALSE IMPRISONMENT, CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

- 18 1. General damages for Pain and suffering in an amount to be determined according
- 19 to proof at trial;
- 20 2. Medical and future medical and related expenses in an amount to be determined
- 21 by proof at trial;
- 22 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 23 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 24 5. General damages for severe emotional and psychological distress
- 25 6. Pain and suffering;
- 26
- 27
- 28

- 1 7. Statutory damages;
- 2 8. Attorneys' fees;
- 3 8. Punitive and exemplary damages against all non-public entity Defendants
- 4 9. Costs of this action;
- 5 10. Such other and further relief as the Court deems just and proper.

## 7 **NINTH CAUSE OF ACTION**

### 8 **NEGLIGENCE**

- 9 1. General damages for Pain and suffering in an amount to be determined according
- 10 to proof at trial;
- 11 2. Medical and future medical and related expenses in an amount to be determined
- 12 by proof at trial;
- 13 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 14 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 15 5. General damages for severe emotional and psychological distress;
- 16 6. Pain and suffering;
- 17 7. Statutory damages;
- 18 8. Attorneys' fees;
- 19 9. Costs of this action;
- 20 10. Such other and further relief as the Court deems just and proper.

## 23 **TENTH CAUSE OF ACTION**

### 24 **NEGLIGENT SUPERVISION**

- 25 General damages for Pain and suffering in an amount to be determined according to
- 26 proof at trial;

2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

#### **ELEVENTH CAUSE OF ACTION**

##### **NEGLIGENCE *PER SE***

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;

10. Such other and further relief as the Court deems just and proper.

**TWELFTH CAUSE OF ACTION**

**Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing**

1. General damages for Pain and suffering in an amount to be determined  
according to proof at trial;

2. Medical and future medical and related expenses in an amount to be  
determined by proof at trial;

3. Past and future lost earnings in an amount to be determined by proof at trial;

4. Impairment of earning capacity for in an amount to be determined by proof at  
trial;

5. General damages for severe emotional and psychological distress

6. Pain and suffering;

7. Statutory damages;

8. Attorneys' fees;

9. Punitive and exemplary damages against all non-public entity Defendants

10. Costs of this action;

11. Such other and further relief as the Court deems just and proper.

**THIRTEENTH CAUSE OF ACTION**

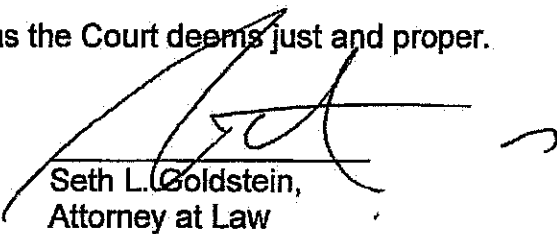
**FRAUD**

1. General damages for Pain and suffering in an amount to be determined  
according to proof at trial;

2. Medical and future medical and related expenses in an amount to be  
determined by proof at trial;

- 1 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 2 4. Impairment of earning capacity for in an amount to be determined by proof at
- 3 trial;
- 4 5. General damages for severe emotional and psychological distress
- 5 6. Pain and suffering;
- 6 7. Statutory damages;
- 7 8. Attorneys' fees;
- 8 9. Punitive and exemplary damages against all non-public entity Defendants
- 9 10. Costs of this action;
- 10 11. Such other and further relief as the Court deems just and proper.

13 Dated: February 23, 2021

  
Seth L. Goldstein,  
Attorney at Law

**NOTICE TO DEFENDANT:** GUIDING HANDS SCHOOL, INC., (hereinafter "GHS", Staranne  
(**AVISO AL DEMANDADO**): MEYERS, "Star Williams", Cindy KELLER, David CHAMBERS,  
Susan Jane BATTLE, "Cory" Doe; Cory QUINCEY; Byrna QUINCEY, Noel COLLIER, STATE OF  
CALIFORNIA DEPARTMENT OF EDUCATION (hereinafter CDE), PLACER COUNTY SELPA  
(hereinafter PLACER SELPA); Troy TICKLE, Kristi GREGERSON; Cara BRUCE; Ashley ROBB; Dolores  
ZUMBURY, Vince ANDERSON; POINT QUEST, Inc.; Nicole DOE; Jennifer DOE; ROCKLIN UNIFIED  
SCHOOL DISTRICT (hereinafter RUSD); Patricia DOE; David DOE; Amanda Doe; Noelle DOE; Bruce  
CHAPMAN, and HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEM, Inc., and Does 1-100

**YOU ARE BEING SUED BY PLAINTIFF:**

(**LO ESTÁ DEMANDANDO EL DEMANDANTE**): Louie Andreas Marques;  
Gloria V.M.; Thomas V.M.; and Jordan V.M.

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

EL DORADO CO. SUPERIOR CT.

FILED FEB 23 2021

BY Deputy

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

Superior Court, County of Sacramento El Dorado  
720 9th Street

Sacramento, CA 95844

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Seth L. Goldstein, SBN 176882  
Law Offices of Seth L. Goldstein  
Monterey, CA 93940

DATE: FEB 23 2021  
(Fecha)

Tania G. Ugrin-Capobianco  
Clerk, by  
(Secretario)

831-372-9511 831-372-9611

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):



**Seth L. Goldstein, S.B.N. 176882**  
2100 Garden Road, Suite H-8  
Monterey, California, 93940  
Telephone (831) 372 9511  
Fax (831) 372 9611

EL DORADO CO. SUPERIOR CT.

FILED NOV 02 2021

BY Deputy

**Lead-Counsel for Plaintiffs**

**Merit Bennett, Pro Hac Vice**  
460 St. Michael's Drive, Suite 703  
Santa Fe, New Mexico 87505  
Telephone: (505) 983-9834  
Fax: (505) 983-9836

**Co-Counsel for Plaintiffs**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO**

In the Matter of:

**Louie Andreas MARQUES, Gloria V.M.,  
Thomas V.M., and Jordan V.M.,**

**Plaintiffs**

**vs**

**GUIDING HANDS SCHOOL,  
Inc.(hereinafter "GHS"), , Staranne  
MEYERS, Cindy KELLER, Phylis RAMSEY,  
Jennifer CHRISTENSEN, David  
CHAMBERS, Noel Doe, Nicole DOE,  
Roland DOE, Noel COLLIER, Patricia DOE,  
David DOE, Amanda DOE, Cara BRUCE,  
Ashley ROBB, Dolores ZUMBURY, Vince  
ANDERSON, Susan Jane BATTLE and  
Noelle DOE; STATE OF CALIFORNIA,  
DEPARTMENT OF EDUCATION; PLACER  
COUNTY SELPA, Kristi GREGERSEN, Troy  
TICKLE, POINT QUEST, Inc., Bill  
TOLLESTRUP, Bill WEBBER, Nicole DOE,  
Jennifer DOE; ROCKLIN UNIFIED  
SCHOOL DISTRICT, Kristain ROYER, Beth  
DAVIDSON; HANDLE WITH CARE  
BEHAVIOR MANAGEMENT SYSTEMS,  
INC.**

**Defendants.**

**Case No.: PC20200429**

**SECOND AMENDED  
COMPLAINT FOR DAMAGES**

**JURY TRIAL DEMANDED**

**SCANNED**

NOV 12 2021

**Exhibit C**

**I. PARTIES**

**Plaintiffs**

1. Plaintiff Louie MARQUES (legal name Louie Andreas MARQUES, hereinafter "MARQUES"), who lives in Sacramento was, at all relevant times herein, a minor child diagnosed as then having Oppositional Defiant Disorder and ADHD. He was a person with a disability as defined by the Unruh Act, with a mental disability as defined in Sections 12926 and 12926.1 of the Government Code.
2. At the relevant times, MARQUES had an IEP that identified predictable behaviors as disrespecting authority, tantrums, disruption of others, yelling, swearing, and kicking.
3. The BIP mandated that staff use verbal prompts, proximity changes, and modeling behaviors sought to be learned.
4. **Plaintiffs Thomas and Jordan V.M.** were children with disabilities as defined in 20 USD 1401(3), and were persons who under the Unruh Act, have a mental disability as defined in Sections 12926 and 12926.1 of the Government Code.
5. Thomas V.M. had an IEP that identified kicking, biting, throwing objects, refusal to participate in activity or follow staff directives, yelling, screaming, grunting or crying with tears as predictable behaviors.
6. His less restrictive corrective measures are identified as monitoring for safety, one step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach" and reapplication of original direction and follow through with original instruction.
7. Jordan V.M. had an IEP that identified non-compliance, physical aggression (kicking, hitting, pushing, biting, and spitting on staff and peers), yelling/screaming, inappropriate gestures and other behavior described as eating crayons and spitting water as predictable behaviors.

1 8. His less restrictive corrective measures are identified as monitoring for safety,  
2 one step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt  
3 approach" and reapplication of original direction and follow through with original  
4 instruction.

5 9. **Plaintiff Gloria V.M.** is the adoptive mother of Thomas and Jordan V.M. and is  
6 their Guardian Ad Litem.

#### 7 **DEFENDANTS**

8 10. **Defendants Guiding Hands School Inc., and Point Quest Inc.** 4900 Windplay Dr.,  
9 El Dorado Hills, California, located on the same premises having allegedly bought out  
10 GHS are non-public schools (hereinafter NPS) incorporated under the laws of the State  
11 of California as for-profit corporations and approved by the State of California as  
12 institutions providing for children with disabilities.

13 11. At all times relevant to this Complaint, GHS was a business establishment within  
14 the meaning of the Unruh Civil Rights Act. Defendant GHS was an independent  
15 contractor with Elk Grove Unified Schools, pursuant to a written contract to perform  
16 educational services for Plaintiffs MARQUES, Thomas and Jordan V.M.

17 12. Presently, and at all times relevant to this Complaint, POINT QUEST is a  
18 business establishment within the meaning of the Unruh Civil Rights Act. Defendant  
19 POINT QUEST is an independent contractor with Rocklin Unified Schools and Placer  
20 County SELPA, pursuant to a written contract to perform educational services for  
21 Plaintiff Jordan V.M.

22 13. Presently, and at all times relevant to this **Complaint, Defendants Rocklin**  
23 **Unified Schools and Placer County SELPA** are business establishments within the  
24 meaning of the Unruh Civil Rights Act.

25 14. **Defendant California Department of Education (CDE)**, a department of the  
26 State of California, presently, was, and at all times relevant to this Complaint,  
27 responsible for inspecting and certifying Non-Public Schools such as GHS and POINT  
28 QUEST. It is a business establishment within the meaning of the Unruh Civil Rights Act.

directed, and have ostensibly and/or directly approved or ratified each of the acts or omissions of each of the other Defendants, as herein described.

**GHS EMPLOYEES:**

21. At all times herein mentioned, as to Plaintiff MARQUES defendants Staranne Meyers (hereinafter "MEYERS") was the principal and member of the board of GHS, Cindy Keller (hereinafter "KELLER") was the executive director of GHS, Phyllis RAMSEY (hereinafter "RAMSEY") was an administrator for GHS and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs, activities, services, training, staff; and all of whom have direct responsibility for ensuring the safety and well-being of their students, and for ensuring compliance with state and federal laws. MEYERS, KELLER, RAMSEY and DOE defendants allowed and encouraged staff at GHS to intentionally and unlawfully assault and batter Plaintiff MARQUES.

22. At all times herein mentioned, as to Plaintiffs Thomas and Jordan V.M., defendants MEYERS was the principal and member of the board of GHS, KELLER was the executive director of GHS, RAMSEY was an administrator for GHS, Jennifer CHRISTENSEN was an administrator at GHS, NARAN was an administrator at GHS, and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs, activities, services, training, staff; and all of whom have direct responsibility for ensuring the safety and well-being of their students, and for ensuring compliance with state and federal laws. MEYERS, KELLER, CHRISTENSEN, RAMSEY, NARAN, Noel COLLIER (Special Education Teacher), and unknown DOE defendants allowed and encouraged staff at GHS to intentionally and unlawfully assault Plaintiffs Thomas and Jordan V.M.

23. At all times herein mentioned, "Roland" was a driver for GHS and assisted on campus during the time Thomas V.M. was at GHS. "Roland" was also rehired as staff at Defendant Point Quest.

1 24. At all times herein mentioned, there were two secretary/support staff working the  
2 "front desk" at GHS. One was known to Thomas V.M. only as "Nicole" and the other's  
3 name is unknown at this time. On information and belief, "Nicole" was rehired at  
4 Defendant Point Quest.

5 25. At all times herein mentioned, as to Plaintiff MARQUES defendants Delores  
6 ZOMBURY (hereinafter "ZOMBURY"), Vince ANDERSON (hereinafter "ANDERSON"),  
7 Ashley ROBB (hereinafter "ROBB"), Cary BRUCE (hereinafter "BRUCE"), Cory  
8 QUINCEY (hereinafter "CORY"), Bryna QUINCEY (Hereinafter "BRYNA"), David  
9 Chambers (hereinafter "CHAMBERS") Kera BRUCE (Hereinafter "BRUCE" , Susan  
10 Jane BATTLE, and DOE defendants were employed as teachers, and aides at GHS,  
11 who intentionally and unlawfully assaulted MARQUES and unlawfully inflicted corporal  
12 punishment upon him. They had authority and control of the classroom, including  
13 policies, practices, procedures, facilities, and activities within the classroom. They are  
14 sued in their individual capacity and in their capacity as employees of GHS.

15 26. The names and capacities, whether individual, corporate, otherwise, sued herein  
16 as DOES 1-100, inclusive, are presently unknown, and Plaintiff will amend the  
17 Complaint to insert them when ascertained.

#### POINT QUEST EMPLOYEES

18 27. Bill Tollestrup, Interim Director of El Dorado Hills, Bill Weber, Director of El  
19 Dorado Hills, Nicole DOE, Jennifer DOE, Roland Doe, and DOE defendants were  
20 employed as administrators, teachers, and aides at POINT QUEST, who intentionally  
21 and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon  
22 him. They had authority and control of the classroom, including policies, practices,  
23 procedures, facilities, and activities within the classroom.

24 28. At all times relevant to this Complaint, Defendant Noel COLLIER, Patricia DOE,  
25 David DOE, Amanda DOE, and Noelle DOE were employees of POINT QUEST and  
26 were either directly involved in restraining Plaintiff Jordan V.M. or were immediately  
27  
28

present on the premises during the restraints and failed to intercede to protect the plaintiffs.

They are sued in their individual capacity and in their capacity as employees of POINT QUEST.

#### **ROCKLIN UNIFIED SCHOOL EMPLOYEES**

29. Kristain ROYER, Program Specialist, Beth DAVIDSON, Assistant Director of Special Education, and DOE defendants were employed as administrators at RUSD, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

#### **PLACER COUNTY SELPA EMPLOYEES**

30. Kristi Gregersen, Program Specialist, Troy TICKLE, Director, Placer County SELPA, and DOE defendants were employed as administrators at Placer County SELPA, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

31. Plaintiffs MARQUES, Thomas, and Jordan V.M. were placed at GHS and POINT QUEST by their respective school districts after representations were made to the minors' parents about both schools special skills, facilities and safe environment appropriate for their children. The placement was pursuant to each student's Individual Education Plan (IEP), as a result of their diagnosis as children with disabilities, because the school districts themselves determined they were unable to provide a Free Appropriate Public Education.

32. Defendants GHS, POINT QUEST, ROCKLIN UNIFIED SCHOOLS AND PLACER COUNTY SELPA have failed to adequately supervise their employees that resulted in

the foreseeable physical harm to Plaintiffs. Defendants had a statutory duty to ensure that staff who came into contact with Plaintiffs would provide an environment free of abuse and neglect.

33. California law, including Cal Const, Art. I § 28, has long imposed on school authorities a duty to supervise at all times the conduct of children on school grounds and to enforce those rules and regulations necessary for their protection. Defendants also had a duty to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting intentionally or negligently.

34. Defendants have violated their statutory duties to Plaintiff, including their supervisory duties created under California Education Code sections 44807 and 44808.

35. California Penal Code section 11166 which required them to report any knowledge of a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect to the agency immediately or as soon as is practically possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written follow up report thereof within 36 hours of receiving the information concerning the incident.

36. Defendants have violated their statutory duties to Plaintiffs Thomas and Jordan V.M., including multiple violations of California Education Code sections 56521.1 and 56521.2 (and its predecessor legislation) that, in pertinent parts, suggest alternative interventions and/or prohibits the use of any interventions that:

1) cause physical pain; 2) simultaneously immobilize all four extremities, 3) apply an amount of force that exceeds that which is reasonable and necessary under the circumstances, or 4) subjects the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.

37. Defendants have violated their statutory duty under California Penal Code section 11165.4 which prohibits "unlawful corporal punishment or injury" against a child, defined as "any cruel or inhuman corporal punishment or injury resulting in a traumatic condition."

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38. Defendants GHS and POINT QUEST violated its statutory duty under California Education Code section 260 by failing to enact an adequate formal or informal policy to ensure that GHS and POINT QUEST provided a learning environment free from discrimination based on the characteristics provided in California Education Code section 220, specifically disability.

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39. GHS was closed in 2018 after the State of California revoked their license to operate following the death of student Max Benson who was subjected to a restraint that killed him.

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40. After GHS was closed it was, allegedly, sold to POINT QUEST, and Jordan V.M. then attended Defendant POINT QUEST.

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41. When POINT QUEST took over GHS facilities and educational duties, Gloria V.M. was assured by the Rocklin Unified School staff, Placer County SELPA, and POINT QUEST staff, expressly, by inference, or omission, that the previous policies and practices employed by GHS were, not only no longer employed, she was assured that the GHS employees were gone and would not be rehired at POINT QUEST.

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42. For more than a decade, the California Department of Education ("CDE"), school districts, county offices of education and Special Education Plan Areas ("SELPAs") -have known that using restraints on students, particularly in response to predictable disability-related behavior, carries serious risks for their physical and emotional health.

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43. There have been many reports of students with behavioral challenges dying or sustaining serious injuries due to abusive use of restraint systems, such as the Handle With Care system developed by Defendant Bruce Chapman. It is also well-known that restraints are disproportionately used against children with disabilities.

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44. Despite this knowledge, nonpublic schools like Defendants GHS and POINT QUEST and their respective staffs continued to use such restraints frequently, in response to predictable behaviors that did not constitute an immediate or serious threat to the student or others, for extended periods of time, on students whose disabilities elevated the risk of using restraints, and with excessive force.

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45. They could do so because the CDE, and the LEA Defendants abdicated their responsibilities to monitor and supervise GHS and POINT QUEST and ensure their compliance with state and federal laws prohibiting discrimination and the improper use of restraints.

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46. The CDE continued to certify GHS continues to currently certify POINT QUEST, and the LEA Defendants continued to contract with and place their students with disabilities in the respective schools.

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47. Plaintiff students with developmental and other disabilities whose local educational agencies placed them at GHS and POINT QUEST pursuant to their Individualized Education Plans ("IEP")

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48. Each Plaintiff Student attended GHS sometime between 2006 and 2018, where its administrators and staff subjected them to excessive and harmful restraints and other aggressive physical interventions in response to known behaviors associated with their disabilities, resulting in physical and emotional abuse and injury, and in the case of one other student, death.

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49. GHS was, and POINT QUEST is, a nonpublic school-as that term is defined in Cal. Ed. Code § 56034-which contracted with the LEA Defendants to provide special education services to public school students with disabilities in exchange for state and federal educational funding.

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50. As required by law, GHS and POINT QUEST entered into Master Contracts with the LEA's, as well as an Individual Services Agreement for each student placed there.

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51. Each of the Plaintiff Students' IEP's included a Behavioral Intervention Plan ("BIP") which described the student's known disability-related behaviors and the intervention strategies and positive behavioral supports educators should use to prevent or respond to those behaviors.

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52. Despite legal requirements (discussed below) and Defendants' knowledge of the dangers associated with restraints to students' physical and emotional health, GHS and POINT QUEST administrators and employees engaged in a policy and practice of using restraints as a substitute for the positive interventions detailed in the students' BIPs in

1 response to predictable behavior that did not pose a clear and present danger of  
2 serious physical harm to the student or others. GHS and POINT QUEST used  
3 restraints against its students frequently, for periods of time that were longer than  
4 necessary, and with excessive force.

5 53. These restraints-including prone restraints- in which the child is placed face  
6 down on the floor with one or more adults applying force from above to keep the child's  
7 body immobile-frequently lasted over an hour.

8 54. Some students were restrained frequently, sometimes more than one time each  
9 day.

10 55. The restraints and other aggressive physical interventions inflicted by GHS and  
11 POINT QUEST caused the Plaintiff Students physical and emotional injuries.

12 56. GHS and POINT QUEST administrators were not only aware of the abuse, but  
13 encouraged it and were responsible for the school's policy and practice of using  
14 frequent, excessive, harmful and lengthy restraints as a substitute for positive  
15 behavioral interventions in response to students' predictable, disability-related  
16 behaviors.

17 57. GHS and POINT QUEST did not provide adequate training in positive  
18 behavioral interventions, instead relying on Defendant Bruce Chapman's patented  
19 restraint system, Handle With Care Behavioral Management Systems, Inc. which was  
20 associated with numerous abuses by educational professionals on students with  
21 behavioral challenges.

22 58. GHS and POINT QUEST training in the HWC method ignored requirements of  
23 state and federal law and did not provide proper warnings regarding the risks  
24 associated with restraining students or safeguards for monitoring and responding to  
25 signs of distress.

26 59. Moreover, GHS and POINT QUEST took significant measures to conceal its  
27 illegal use of restraints and child abuse from parents and the LEAs with which it  
28 contracted by failing to provide required reports to the parents and the State of  
California.

60. Prior to the children's placement, GHS misrepresented orally, in enrollment documents, and in the children's IEP that the school focused on proactive, positive behavioral interventions and that corrective behavior would be "calm", "brief", and "respectful."

61. The HWC Intervention Statement that parents had to sign as part of the enrollment packet emphasized positive intervention and "the 3-step prompt" which "entails a verbal request, followed by staff modeling and finally hand over hand with children who may have difficulty following directions . . . ." It represented that a restraint would be used only if the child appeared to be "a physical danger to themselves or others around them".

62. GHS used the HWC terminology in referring to the most dangerous restraint-a prone restraint-as a "neutral" restraint. *Id.* These misrepresentations were repeated in the students' BIPs developed as part of the IEP process and a part of the agreement between the parent/student, the LEA, and GHS.

63. When a student was restrained, GHS frequently failed to complete a Behavioral Emergency Report ("BER"), place the BER in the student's file, send it to the LEA, or notify the student's parent, as required by law and GHS's Master Contracts with the LEAs. Nor did GHS administrators or staff report the regular, systemic child abuse they witnessed and participated in at the school, despite the requirement to do so as mandated reporters.

64. GHS's use of restraints was so excessive in frequency, duration, force and purpose that any educator or monitoring official who personally observed the program for more than an hour would realize that the school and its staff had exceeded the legal bounds for emergency interventions and were physically abusing their students.

65. However, the CDE and the LEAs ignored their legal duties to supervise and monitor the program and continued to place vulnerable students in its care. GHS would still be abusing its students were it not for the death of a 13-year-old student who died after he was held in a prone restraint for almost two hours on November 28, 2018.

1 66. Plaintiff Thomas V.M. was a disabled student, placed at GHS on August 6, 2018,  
2 because of his diagnosis of his disability. Plaintiff Jordan V.M. was a disabled student,  
3 placed at GHS on February 22, 2018, because of his diagnosis of disability. All  
4 plaintiffs, due to their disabilities, engaged in repetitive conduct that disrupted their  
educational experience and abilities.

5 67. Because of the disruption that affected other students, they were frequently  
6 placed in such restraints, which included but was not limited to, the imposition of  
7 restraints that constituted physical child abuse, battery, and assault.

8 68. Referring to these restraints as though they were normal and accepted ways of  
9 disciplining plaintiffs, Defendant administrators, teachers and assisting staff, as  
10 individually identified below, preyed on plaintiffs because of their disability related  
11 conduct.

12 69. These defendants assaulted and battered plaintiffs repeatedly rather than  
13 following the BIPs.

14 70. The LEA administrators, by and through their agency with GHS and POINT  
15 QUEST administrators tasked unqualified and inadequately trained staff with  
16 supervising plaintiff students, who often failed to document and report incidents of  
17 abuse, and failed to take reasonable steps to prevent further abuse.

18 71. Plaintiffs, like other students who were also subjected to such conduct, would  
19 attend class and when a student acted consistently with their predictable behaviors  
20 stated in their individual BIP and IEP (and the reason(s) why they were placed at GHS  
21 and POINT QUEST) or failed to follow the directions of the GHS and POINT QUEST  
22 staff as individually described below, they would be subjected to painful restraints in full  
23 and open view of fellow students.

24 72. Each plaintiff had specific conduct that was identified in their BIP, for which,  
25 each plaintiff had a set of less restrictive measures to be taken before a "hands on"  
26 physical intervention such as painful restraints would be exercised.

27 73. Plaintiffs witnessed other students treated in the same way in their respective  
28 classes. The observation of such torturous conduct to other students and themselves

caused Plaintiffs who were in their immediate presence to experience fear and anxiety such that they were terrorized in anticipation that they too might be hurt in the same way.

74. As to MARQUES, the documented abuse occurred from as early as December 18, 2006, when Plaintiff MARQUES began attending GHS through March 19, 2008, when he was removed. For Thomas and Jordan V.M., it began when they first began to attend GHS on February 22, 2018, and lasted until they were removed on or about the end of December 2018 and officially, in January, 2019.

75. Shortly after beginning to attend Defendant POINT QUEST, Thomas was assaulted, battered, and restrained in the same fashion as described below. He was removed on or about October 1, 2019 and officially October 22, 2019.

76. No efforts were shown to protect plaintiffs from the continued abuse by the schools' administrations and, in fact, when complaints were made by plaintiff's respective parents, the administration of both schools backed their employees alleging the children were at fault and their employee's actions were necessary.

77. Defendants GHS and POINT QUEST, and their individual staff members as particularly described below, carried out these series of abusive acts upon Plaintiffs and other students, terrorizing them throughout their time at the school generating Plaintiffs' deeply held fears of reoccurrence.

78. The harmful effects of the abuse suffered by all Plaintiffs at the hands of the staff directly abusing him have been compounded by all the Defendants' (as individually named below) willful failure to adequately report, document, respond to, and prevent the abuse.

79. Even after each of the plaintiffs' parents approached the defendants as described below, requesting information about the abuse that would explain the children's injuries, conduct at home, and their account of events, defendant administrators at the respective schools failed to provide any meaningful information regarding what transpired in their children's classroom, covering up their conduct by providing false accounts of the events.

80. Plaintiffs Thomas and Jordan V.M. are in another school in Washington State.

81. The alleged acts and Plaintiffs' damages are such that proceeding through due process before the Office of Administrative Hearings would be both futile and irrelevant.

82. Plaintiffs' injuries cannot be redressed under the IDEA's due process procedures because they were assaulted and are not seeking the types of remedies available under the IDEA, rather seeking remedies for physical and emotional damages resulting from being assaulted.

83. In addition, Plaintiff MARQUES is an adult and outside of the educational system.

84. The same is true for Plaintiffs Thomas and Jordan V.M. who are both outside the State of California in a private religious school.

85. From records to be obtained by Plaintiffs, there were restraint incidents involving Plaintiffs and they expressly reserve their right to amend this Complaint to include additional facts and/or claims as discovery in this case proceeds.

#### **OPERATIVE FACTS**

86. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

#### **AS TO PLAINTIFF MARQUES**

87. Over a one-and-one-half year period as specifically set forth below in each cause of action, Defendants ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOE defendants repeatedly unlawfully assaulted Plaintiff MARQUES by grabbing him, pushing or otherwise forcing him to the floor and, in painful positions, pinning all four appendages for various periods of time, immobilizing him, including as punitive measures. All were either for an unnecessarily prolonged period of time or had failed to utilize the less restrictive measures set forth in his BIP for predictable behaviors related to his disability.

88. MARQUES was a student at GHS from 2006 to 2008. He was referred to GHS by Elk Grove School District employees.

89. MARQUES had both an Individual Education Plan (IEP) and a Behavioral Intervention Plan (BIP) at all relevant times herein.

90. Defendants GHS, MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHRISTENSEN, CHAMBERS and DOE defendants failed to file Behavioral Emergency Reports or document injuries as required by law, so all of the dates of assaults all are unknown to MARQUES at the present time.

91. Those that are identified occurred on Sept. 12, 2006, Dec. 18, 2006, April 16, 2007, April 23, 2007, September 4, 2007, September 5, 2007, October 31, 2007, March 19, 2008, set forth in greater detail below.

92. On September 12, 2006, at 9:50 AM, guiding hands employees Kera Bruce and Ashley ROBB, put MARQUES in a restraint for 12 minutes because he failed to stand appropriately and when escorted from the line he was standing in, kicked a student and Bruce. He was restrained "per CPI". Both Dolores ZOMBURY and David Chapman participated in the restraint.

93. On December 18, 2006, at 1:45 PM Ashley ROBB and Kera Bruce instituted an eight minute restraint after MARQUES had been found to have a toy belonging to another student. What he was told to return the toy he began to kick his desk and a filing cabinet. He was placed in a basket restraint.

94. On April 16, 2007 at 9 AM, MARQUES was put in a restraint for five minutes by ZOMBURY, after he refused to sit down and began throwing pencils and calling children names.

95. On April 17, 2007, at 10 AM, MARQUES was put in a restraint by Dolores ZOMBURY for five minutes after he was told to put a pointer down and had slapped it on the desk of another student. When he was directed to sit down he ran around the room and was restrained.

96. On April 17, 2007, at 10:50 AM, MARQUES was put in a restraint for 30 minutes by Dolores ZOMBURY and subsequently by a teacher's aide known only as "Laure", when MARQUES refused to give back a protein bar and be escorted to his seat. He kicked the teacher and was taken to the "corner".

1 97. On April 23, 2007, at 8:35 AM, he was placed in a three minute restraint by  
2 ZOMBURY after another student had pushed him, rubbing "snot" on his jacket and in  
3 response he pushed that student down.

4 98. On April 23, 2007 11:30 AM, MARQUES was put in a restraint when he began  
5 swearing and started to run towards another student after he disregarded a request by  
6 the instructor to put his head down on his desk. The staff involved were ZOMBURY and  
7 Chambers.

8 99. On September 5, 2007, 2 PM, MARQUES was put in a restraint by instructor  
9 Vince Anderson, because he failed to follow directions and began yelling in the  
10 presence of his mother.

11 100. On March 19, 2008, CORY, BRYNA, CHAMBERS, and DOE defendants  
12 restrained MARQUES, forcing him to the floor and containing him in a "basket hold."

13 101. In this restraint, MARQUES was pushed to the ground and placed in a position  
14 for an extended period of time, while his arms were pulled behind his back. GHS staff  
15 sat at his back while he was in this position, increasing his pain and making it difficult  
16 for him to move.

17 102. This incident arose when another child assaulted MARQUES with a rock and  
18 MARQUES defended himself.

19 103. When assaulted by GHS staff on March 19, 2008, MARQUES suffered bruises  
20 to his chest, burns to his elbows, and severe soft tissue damage to his back and  
21 buttocks as a result of these restraints.

22 104. MARQUES subsequently suffered panic attacks, night-terrors, startles,  
23 depression and self-loathing as a result of these restraints.

24 105. MARQUES was abused on additional occasions while attending GHS.

25 106. MARQUES will seek leave to allege these dates according to proof when further  
26 information becomes available through the discovery process.

27 107. At all relevant times, MARQUES.'s behaviors were known and predictable and  
28 had previously been addressed in his Behavioral Intervention Plan.

108. The restraints imposed upon MARQUES, as herein alleged, constituted child abuse (Penal Code Section 273a), corporal punishment (Penal Code Section 273d) and battery (Penal Code Sec. 242), and torture (Penal Code Section 206) prohibited by California law.

**AS TO THOMAS V.M.**

109. Thomas V.M. was restrained by GHS and POINT QUEST staff on many occasions the precise details are neither known to he nor his mother at this time, other than that described as follows.

110. Thomas V.M. was restrained in some fashion on September 5, 2018, for forty (40) minutes by or in the presence of Defendant Noel COLLIER, who left a phone message for Gloria V.M. on that date informing her of the incident where he refused to participate in an art exercise and was restrained as a result of staff intervention.

111. Thomas V.M. was restrained in some fashion on September 19, 2018, by or in the presence of Defendant Noel COLLIER.

112. Thomas V.M. was restrained in some fashion on October 3, 2018, by or in the presence of Defendant Noel COLLIER, when he refused to cooperate with staff.

113. Thomas V.M. was restrained in some fashion on October 23, 2018, by or in the presence of Defendant Noel COLLIER and David Chambers, when he would not cooperate with staff and bit one on the leg.

114. Thomas V.M. was restrained in some fashion on October 18, 2018, by or in the presence of Defendant Noel COLLIER when he would not cooperate with staff.

115. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 3, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would not give up a ball nor participate in Yoga.

116. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 5, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would participate in his math lesson and threw a pencil and his book.

117. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 19, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would not give up a ball nor participate in school work, threw his paper at Noelle DOW and tried to leave the classroom.

118. Thomas V.M. was restrained by a staff member named "Jennifer" when attending POINT QUEST and, as a result, his mother immediately withdrew him from the school.

119. Thomas V.M. knows that "Jennifer" was a previous staff member at GHS.

120. Thomas V.M. was repeatedly assaulted by "Roland" who was a driver for GHS and who had shoved Thomas, face first, into a wall on various occasions, one of which chipped one of Thomas's teeth.

121. While attending GHS, Thomas was repeatedly refused food and prevented from eating, despite his mother's frequent pleas that he be provided the lunch he was sent to school with or that was to have been provided by the GHS staff. Thomas, at all relevant times, was suffering from a thyroid disorder and provided medication that frequently made him hungry. Various unidentified staff, including Nicole Doe, had taken Thomas's lunch from him before he was finished eating, thereby increasing his discomfort and hunger throughout the day.

**AS TO JORDAN V.M.**

122. Jordan V.M. was restrained by GHS staff on many occasions the precise details are neither known to he nor his mother at this time, other than that described as follows:

123. Jordan V.M. was restrained in a restraint of some fashion on February 26, 2018, by or in the presence of Defendant Amanda Doe, when he would not cooperate on a bus trip home.

124. Jordan V.M. was restrained in a restraint of some fashion on October 10, 2018, by or in the presence of Defendant Noel COLLIER, when he was asked to do class work and threw a crayon.

125. Jordan V.M. was restrained in a restraint of some fashion on October 9, 2018, by an unknown staff member, possibly "Dorian", for an unknown reason.

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**FIRST CAUSE OF ACTION**

**Violation of California Civil Code §§ 51, et seq.**

AS TO PLAINTIFF MARQUES Against GHS;  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
and DOES 1-100.

126. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth herein.

127. Plaintiff MARQUES was a person with disabilities as defined by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. He had been diagnosed with Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder and was limited in the major life activities of learning.

128. Plaintiffs THOMAS and JORDAN V.M. are persons with disabilities as defined by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. They had been diagnosed as Autistic.

129. Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT are businesses establishment covered by California Civil Code §51.

130. GHS, POINT QUEST and their staffs subjected Plaintiffs to physical and emotional abuse in response to behavior that was a manifestation of Plaintiffs' disabilities as described above.

131. GHS and POINT QUEST discriminated against Plaintiffs in that they did not provide them with full and equal enjoyment of GHS' and POINT QUEST's goods, services, facilities, privileges, advantages, or accommodations.

132. Plaintiffs were not provided with the services, facilities, privileges, advantages and accommodations of GHS and POINT QUEST on a basis equal to that afforded to individuals without disabilities.

133. The discipline methods, behavior standards and criteria employed by GHS and POINT QUEST caused Plaintiff to be subjected to physical and emotional abuse as a result of his disabilities.

134. GHS and POINT QUEST failed to make reasonable modifications to their educational and behavioral intervention methods and staff training that were necessary to afford students with disabilities such as Plaintiff equal access to GHS's and POINT QUEST's goods, services, facilities, privileges, advantages and accommodations.

135. The actions and failures to act of GHS and POINT QUEST violated Title III of the Americans with Disabilities Act of 1990, 42 U.S.C. § 121. Defendant has committed additional violations of the Unruh Civil Rights Act in that the conduct alleged herein constitutes a violation of various provisions of the Americans with Disabilities Act, 42 U.S.C. sections 12181, et seq. As such, Defendant's actions also constituted a violation of the Unruh Act under Cal. Civ. Code § 51(f).

136. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

137. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense pursuant to California Civil Code section 52.

138. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

**SECOND CAUSE OF ACTION**  
**Violation of Cal. Civ. 51.7 Ralph Civil Rights Act**  
**AS TO PLAINTIFF MARQUES Against GHS and DOES 1-100;**

AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

139. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth herein.

140. Defendants in doing the acts described above violated Plaintiffs' rights under the Ralph Civil Rights Act.

141. Plaintiffs have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of any characteristic listed or defined in subdivision (b) or (e) of Section 51, because another person perceives them to have one or more of those characteristics.

142. In committing the acts described above, all defendants have violated Plaintiffs' rights by subjecting them to violence and intimidation.

143. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

144. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense pursuant to California Civil Code section 52.

145. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

### THIRD CAUSE OF ACTION

#### For Interference with Exercise of Civil Rights in Violation of California Civil Code Section 52.1

AS TO PLAINTIFF MARQUES Against GHS,  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

146. Plaintiff incorporate, by reference herein, all preceding paragraphs , as though fully set forth herein.

147. California Civil Code 52.1 provides that it is unlawful to interfere with the exercise

or enjoyment of any rights under the Constitution and the laws of this state and the United States by attempted use of threats, intimidation or coercion.

148. The California Constitution establishes the right to a free public education to all students on an equal basis. *Butt v. California*, 4 Cal. 4th 668, 685 (1992).

149. California Civil Code section 43 guarantees the right of every person to be free from bodily restraint or harm and personal insult.

150. In doing the things herein alleged, Defendants intentionally interfered with and attempted to interfere with Plaintiff's civil rights by threats, intimidation, or coercion.

151. Defendants acted violently against Plaintiff, thereby preventing him from exercising his rights.

152. Defendants' conduct caused Plaintiff to suffer physical and emotional harm.

153. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

154. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged, was a substantial factor in causing said harm to Plaintiff.

155. Defendants' GHS and POINT QUEST's employees, violated Plaintiffs' rights by using a physical restraint technique that impaired Plaintiffs' ability to breathe; placing Plaintiffs in a face down position with the pupil's hands held or restrained behind the pupil's back; and by using a behavioral restraint for longer than was necessary to contain the behavior that allegedly posed a clear and present danger of serious physical harm to the pupil or others.

156. Defendant employees of GHS and POINT QUEST acted with conscious disregard of Plaintiffs' rights and the fact that their conduct was certain to cause injury and/or humiliation to Plaintiffs. Plaintiffs are informed and believe that Defendant employees of GHS and POINT QUEST intended to cause fear, physical injury and/or pain and suffering to Plaintiff. Plaintiff is therefore entitled to recover punitive and exemplary damages.

157. Plaintiff is also entitled to actual and/or statutory damages, as well as reasonable attorneys' fees and costs as set by the Court.

**FOURTH CAUSE OF ACTION**  
**Violation of California Education Code §§ 200, 201, 220, and 260 et seq.**

AS TO PLAINTIFF MARQUES Against GHS,  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

158. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

159. Plaintiffs are individuals with disabilities.

160. At all times relevant to this complaint, Defendant GHS was an educational institution providing education to students from kindergarten through twelfth grade and receiving financial assistance from the State of California.

161. Defendants discriminated against Plaintiff on the basis of their disability by subjecting them to physical and emotional abuse in response to disability-related behavior.

162. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

163. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged, was a substantial factor in causing said harm to Plaintiff.

164. As a proximate cause of the actions of Defendants herein, Plaintiff is entitled to damages in an amount according to proof and reasonable attorneys' fees and costs.

**FIFTH CAUSE OF ACTION**  
**Assault and Battery Pursuant to California Penal Code Section 206**  
**AS TO PLAINTIFFS**  
**MARQUES, against GHS, KELLER, MYERS, RAMSEY, CHRISTENSEN,**  
**CHAMBERS, ROBB, BRUCE, ZOMBURY, ANDERSON, CORY QUINCY, BYRNA**  
**QUINCY, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;**

Thomas V.M. against defendants GHS, CHRISTENSEN, RAMSEY, MYERS,  
KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe,  
Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;  
EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT;  
DOES 1-100

165. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

166. CHAMBERS, CHRISTENSEN, MEYERS, KELLER, RAMSEY, "JENNIFER" DOE, and DOE defendants , with the intent to cause cruel or extreme pain and suffering for the purpose of persuasion, or for a sadistic purpose, inflicted significant injury upon Plaintiffs by repeatedly assaulting Plaintiffs throwing them to the ground and causing bruises, contusions and lacerations.

167. As a result, Plaintiffs suffered physical and psychological injuries.

168. Defendants acted with the intent to cause injury and that action and intention was despicable, done with a willful and knowing disregard of the rights of Plaintiffs.

169. Defendants acted knowingly and aware of the probable consequences of their conduct and deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel and unjust hardship.

170. Defendants' conduct, assaulting a disabled child is so vile, base, and contemptible that it would be looked down upon and despised by reasonable people.

171. Defendants' conduct in intentionally assaulting and restraining Plaintiffs knowing of their disabilities was malicious and outrageous such that exemplary damages should be awarded.

172. WHEREFORE, Plaintiffs pray for judgment for damages according to proof.

**SIXTH CAUSE OF ACTION**

**ASSAULT AND BATTERY**

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe,  
Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;  
EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT DOES 1-100

173. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

174. In doing the things herein alleged, said defendants intended to cause, and did cause Plaintiffs Thomas and Jordan V.M. to suffer harmful or offensive contact.

175. As a result of said conduct of said defendants, Plaintiffs Thomas and Jordan V.M., reasonably believed that they were about to be touched in a harmful or offensive manner, and in a manner that offended a reasonable sense of personal dignity.

176. In doing the things herein alleged, said defendants threatened to touch Thomas and Jordan V.M. in a harmful or in an offensive manner.

177. At all times herein mentioned, it reasonably appeared to MARQUEZ, Thomas and Jordan V.M. that said defendants were about to carry out the threat.

178. At all times herein mentioned, Thomas and Jordan V.M. did not consent to the conduct of said defendants.

179. Thomas and Jordan V.M. suffered harm, as herein alleged.

180. The aforementioned conduct of said defendants was a substantial factor in causing Thomas and Jordan V.M. harm. The conduct of said defendants, caused Thomas and Jordan V.M. to be apprehensive that said defendants would subject Thomas and Jordan V.M. to further intentional invasions of their right to be free from

harmful and offensive contact, and demonstrated that at all times material herein, said defendants had a present ability to subject Thomas and Jordan V.M. to an intentional offensive and harmful touching.

181. Said defendants' unlawful conduct, as herein alleged, was a substantial factor in causing Thomas and Jordan V.M. to suffer physical and emotional injury, and future physical and emotional injury, all in an amount within the jurisdiction of the court according to proof at trial.

182. At all relevant times, said defendants acted with conscious disregard of MARQUEZ, Thomas and Jordan V.M. rights, safety, physical well-being and feelings. Said defendants also acted with the knowledge of, or with reckless disregard for, the fact that their conduct was certain to cause injury and/or humiliation to Thomas and Jordan V.M. Said defendants intended to cause fear, physical injury and/or pain and suffering to Thomas and Jordan V.M.

183. By virtue of the foregoing, the estate of Thomas and Jordan V.M. are entitled to recover punitive and exemplary damages from individual and non-public entity defendants according to proof at trial. Estate of Thomas and Jordan V.M. make no claim for punitive damages against the named defendants.

# **SEVENTH CAUSE OF ACTION**

## **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, CHRISTENSEN, NARAN, POINT QUEST, RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT;  
DOES 1-100

1  
2  
3 184. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
4 fully set forth herein.

5 185. In doing the things herein alleged, the conduct of said defendants was  
6 outrageous in that it was so extreme as to exceed all bounds of that usually tolerated  
7 in a civilized community.

8 186. Said defendants inflicted actual injury and/or acted with reckless disregard of the  
9 probability that Plaintiffs Gloria, Thomas and Jordan V.M. would suffer emotional  
10 distress, knowing that the children who were restrained, including Gloria, Thomas and  
11 Jordan V.M., were present when the conduct occurred.

12 187. The conduct of said defendants, as herein alleged, was a substantial factor in  
13 causing Gloria, Thomas and Jordan V.M., to suffer severe emotional distress, severe  
14 mental anguish, humiliation, pain, and physical distress.

15 188. Said defendants knew or should have known that Thomas and Jordan V.M. did  
16 not need to be, for their safety or the safety of others, and did not want to be, physically  
17 forced into prolonged prone restraints, standing, seated, settled and/or small child  
18 restraints.

19 189. Said defendants' knowing disregard for the safety of Thomas and Jordan V.M.  
20 and said defendants' deliberate failure to monitor and control their behavior towards  
21 exceptional needs students, such as Thomas and Jordan V.M. caused Thomas and  
22 Jordan V.M. to be repeatedly battered and assaulted by teachers and aides at GHS  
23 and POINT QUEST.

24 190. Said defendants' conduct was extreme and outrageous.

25 191. Said defendants acted willfully and wantonly, and with reckless disregard for  
26 plaintiffs' rights and feelings, and with deliberate indifference to the certainty that Gloria,  
27 Thomas and Jordan V.M. would suffer emotional distress.  
28

192. The outrageous conduct of said defendants described herein was willful and malicious and was performed with conscious disregard for the rights, safety, physical well-being and feelings of the Gloria, Thomas and Jordan V.M. As a result, Gloria, Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual and non-public entity defendants in a sum according to proof.

**EIGHTH CAUSE OF ACTION**

**FALSE IMPRISONMENT CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

ASSERTED by

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; ROYER, DAVIDSON

193. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

194. Said defendants, in concert with one another, did intentionally and unlawfully, and conspire to, exercise force, threat, implied threat of force, or duress, to restraint and confine Thomas and Jordan V.M. , and deprive them of their freedom of movement, when said defendants committed the acts described herein.

195. Thomas and Jordan V.M. did not knowingly or voluntarily consent to said restraints.

196. As a proximate cause of the restraints, Thomas and Jordan V.M. suffered actual physical and emotional harm, as herein alleged.

197. That the conduct of said defendants, as herein alleged, was a substantial factor in causing harm to Thomas and Jordan V.M.

198. The outrageous conduct of the said defendants was willful and wanton, and was

performed with conscious disregard for the rights, safety, physical well-being and feelings of Thomas and Jordan V.M.

199. As a result, Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual and non-public entity defendants in a sum according to proof at time of trial.

**NINTH CAUSE OF ACTION  
NEGLIGENCE**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST, RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
DOES 1-100

200. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

201. Said defendants breached their duty towards Thomas and Jordan V.M. by:

a. Failure to develop and maintain effective procedures governing emergency interventions;

b. Failure to obtain proper training for use of behavioral emergency interventions

c. Failure to provide oversight on the use of restraints

d. Failure to develop protocols for use of restraints

f. Failure to prohibit restraints on physically disabled children

g. Failure to prohibit prolonged restraints (anything over 15 minutes)

h. Failure to require that Thomas and Jordan V.M. be released from a restraint at the earliest possible moment.

i. Failure to prohibit the use of any restraint when contraindicated by Thomas and Jordan V.M. medical or psychological conditions, which were known to increase the risk of physical injury.

j. Failure to prohibit restraints that constrict the child's ability to breathe.

k. Failure to prohibit the use of multiple staff members in a restraint, which exponentially increases the risk of injury.

l. Failure to provide for the comfort of Thomas and Jordan V.M. while in prone restraint, including, but not limited to: offering Thomas and Jordan V.M. fluids, bathroom use, exercise, range of motion and periodic release of limbs.

m. Failure to require monitoring by staff of the vital signs of the child regularly throughout the restraint.

n. Failure to require continuous, close supervision of a restraint by the HWC trainer or another staff member who is not involved in the restraint.

o. Failure to require immediate and accurate reporting on each restraint

p. Failure to conduct a prompt and thorough review of any restraint imposed as a means to ensure compliance with laws and policies; to ensure continuing safety of students; and to prevent other incidents of restraint.

q. Failure to provide for:

- primary preventative measures rather than restraint;
- interventions that are less intrusive than restraints;
- effective ways to de-escalate situations to avoid restraints; and
- crisis intervention techniques that utilize alternatives to restraint.

1 r. Failure to provide staff with resources and tools to properly respond to  
2 the needs of those whom they serve and to be able to identify and address  
3 the triggers that may cause emotionally disturbed children to react in  
ineffectual ways to the environment.

4 s. Failure to teach students adaptive behaviors, especially involving autistic  
5 children who do not have effective ways of communicating and interacting  
6 with others.

7 t. Allowing use of physical restraints on children which:

8 - create an aversive environment counterproductive to facilitating  
9 learning;

10 - cause significant physical harm, serious, foreseeable long term  
psychological impairment.

11 u. Failure to provide oversight on the use of restraints to determine

12 - whether the intervention was necessary

13 - whether each restraint was implemented in a manner consistent  
14 with staff training, as well as school and District (SELPA) policy.

15 v. Failed to document injuries caused by restraint and

16  
17 w. Failed to get medical attention for a child who was injured while in  
18 restraint.

19 202. As a foreseeable result of the breach of said mandatory duties by said  
20 defendants, said school staff at GHS and POINT QUEST imposed numerous and  
21 prolonged prone restraints on Thomas and Jordan V.M. as hereinabove alleged,  
22 resulting in injuries to Thomas and Jordan V.M.

23 203. Breach of said mandatory duties by said defendants was a substantial factor  
24 in causing injuries Thomas and Jordan V.M.

25 204. At all times herein mentioned said defendants breached the general duties of  
26 due care of educational professionals toward Thomas and Jordan V.M. who were  
27 disabled students under their guidance and care.  
28

205. At all times herein mentioned, said defendants willfully, knowingly, intentionally, maliciously, and routinely used or encouraged the use of prone and other restraints on special needs/disabled children, including Thomas and Jordan V.M. as a form of corporal punishment in violation of California law.

206. At all times herein mentioned, said defendants willfully, knowingly, intentionally, maliciously, and routinely used or encouraged the use of prone and other restraints, known by said defendants to be dangerous, on disabled children, including on Thomas and Jordan V.M. with reckless disregard for the safety of said children.

207. At all times herein mentioned, said defendants, in doing each of the aforementioned acts, willfully, knowingly, intentionally, maliciously, and routinely used, or encouraged the use of, prone and other restraints, to injure special needs/disabled children and to create a reign of terror within the educational environment, in place and instead of providing educational services for special needs/disabled children, for which they were hired.

208. As a direct and foreseeable result of the negligence of said defendants learning of the death of Max Benson, plaintiffs and their own injuries Thomas and Jordan V.M. suffered physical and emotional injuries.

209. The negligence of said defendants was a substantial factor in causing injury Thomas and Jordan V.M. to suffer physical and emotional injuries.

210. By virtue of the willful and wanton, knowing, intentional, malicious acts of said defendants, and acts by said defendants that were done and acts done in reckless disregard for the safety and lives of Thomas and Jordan V.M., Thomas and Jordan V.M. are entitled to punitive damages against individual non-public entity defendants according to an award at the time of trial.

#### **TENTH CAUSE OF ACTION**

#### **NEGLIGENT SUPERVISION**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST, RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer  
Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD,  
RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL  
DISTRICT;  
DOES 1-100

211. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
fully set forth herein.

212. Said defendants had a legal duty to exercise reasonable care in supervising  
special needs students in its respective charge pursuant to California Education Code  
section 44807 and may be held liable for injuries proximately caused by the failure to  
exercise such care.

213. Said defendants failed to exercise reasonable care in supervising Thomas and  
Jordan V.M. when they suffered the abuse as described herein.

214. Said defendants breached their duties to Thomas and Jordan V.M. when they  
failed to supervise Thomas and Jordan V.M., its administrators and staff during the  
abuse, and failed to ensure that GHS and POINT QUEST administrators and staff were  
adequately trained and provided proper supervision.

215. As a direct and proximate result of the actions of said defendants as alleged  
herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages  
according to proof.

#### **ELEVENTH CAUSE OF ACTION**

##### **NEGLIGENCE PER SE**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST,  
RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer  
Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD,  
RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL  
DISTRICT;  
DOES 1-100

216. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
fully set forth herein

217. In doing the things herein alleged, said defendants violated the mandatory duties  
toward Thomas and Jordan V.M. as prescribed by state and federal law as referenced  
in each of the statutes as set forth here-in-above.

218. Said violations were of the statutes specifically intended to protect the class of  
plaintiff and to prevent the injuries as those described herein.

219. Said violations of criminal and civil law were a substantial factor in bringing about  
the harm alleged to Thomas and Jordan V.M. as set forth hereinabove.

220. As a direct and proximate result of the actions of said defendants as alleged  
herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages  
according to proof.

**TWELFTH CAUSE OF ACTION  
Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing**

Asserted by the Plaintiffs Gloria, Thomas and Jordan V.M. Against Defendants GHS,  
Meyers, Keller, Point Quest, Troy Tickle, Kristi Gregerson, Cara Bruce and Doe  
Defendants 1-100

221. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though

fully set forth herein.

1       222.     Upon the respective enrollment of Thomas and Jordan V.M. entered into a  
2       written contract with GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
3       Gregerson, Cara Bruce and DOE defendants for the education of their children.

4       223.     At all times herein mentioned, Thomas and Jordan V.M. were intended third  
5       party beneficiaries to the afore-mentioned contracts entered into between their parents  
6       and defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
7       Gregerson, Cara Bruce and DOE defendants.

8       224.     As a part of said contract, GHS, MEYERS, KELLER, POINT QUEST, Troy  
9       Tickle, Kristi Gregerson, Cara Bruce and DOE defendants provided each of said  
10      parents, with a copy of GHS' and POINT QUEST's parent/teacher handbook in which  
11      GHS and POINT QUEST indicated that they had a system of positive behavior  
12      intervention and support. The GHS handbook also indicated that defendant GHS  
13      would "customize" the system to support student outcomes and "interact with students  
14      in a way that promotes social proficiency." The GHS handbook states that "social  
15      competence is a skill that requires direct teaching." The handbook assured parents  
16      that adult behavior when correcting a child would be "calm", "brief", and "respectful."

17      225.     As part of the contract between said parties and defendants GHS, MEYERS,  
18      KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
19      defendants promised to plaintiffs, and each of them, not to discriminate in any activity  
20      against any student based on physical or mental disability and further promised to  
21      prohibit intimidation or harassment by any employee of defendant GHS, MEYERS,  
22      KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
23      defendants against any student based on physical or mental disability.

24      226.     As part of said contract, defendants GHS, MEYERS, KELLER, POINT QUEST,  
25      Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
26      and each of them, to use Positive Behavior Interventions and Supports to correct  
27      inappropriate behavior and to interact with students in a way which promotes social  
28      proficiency and academic success, using as examples "positive language and

redirecting behavior using a lesson.”

1 227. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST,  
2 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
3 and each of them, that adult behavior when correcting a child would be “calm,  
4 consistent, brief, immediate and respectful,” and that their behavior intervention  
5 approach involved a three step prompt “verbal, modeling, hand-over-hand.”

6 228. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST,  
7 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
8 and each of them, that restraints would be imposed only if the child was a danger to  
9 himself or others so as to de-escalate and re-integrate into classroom activities; the  
10 restraints and their possible consequences for injury and death were not truthfully or  
11 accurately described to plaintiffs, and each of them, by defendants GHS, MEYERS,  
12 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
13 defendants; and the most dangerous type of restraint, a prone restraint, was described  
14 by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson,  
15 Cara Bruce, and DOE defendants to each of Thomas and Jordan V.M’s parents in  
16 innocuous language as a “neutral” restraint.

17 229. Plaintiffs, and each of them, did all of the significant things that the contract  
18 required them to do.

19 230. At all times herein mentioned, all of the conditions required for defendant GHS,  
20 MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and  
21 DOE defendants had occurred.

22 231. Defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
23 Gregerson, Cara Bruce, and DOE defendants unfairly interfered with the rights of  
24 plaintiffs, and each of them, to receive the benefits of the contract by engaging in the  
25 conduct as herein alleged.

26 232. Defendant GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
27 Gregerson, Cara Bruce, and DOE defendants’ interference with the afore-mentioned  
28 benefits of the contract was done in bad faith in that defendants routinely imposed

corporal punishment, in addition to dangerous prone and other restraints, on special needs/disabled children under their care.

1  
2 233. By virtue of the bad faith interference with the contract benefits by defendants  
3 GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce,  
4 and DOE defendants with said plaintiffs' contractual rights, plaintiffs MARQUES,  
5 Thomas and Jordan V.M., suffered severe emotional distress.

6 234. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER,  
7 POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with  
8 said plaintiffs' contractual rights are entitled to medical and therapeutic costs.

9 235. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER,  
10 POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with  
11 said plaintiffs' contractual rights, Gloria V.M. and the beneficiaries of said contract,  
12 Thomas and Jordan V.M., have suffered severe emotional and physical distress at  
13 having the respective children injured by being placed in prone and other restraints  
14 because of their autism and other disabilities.

15 236. By virtue of said bad faith interference with contractual benefits, all plaintiffs  
16 suffered physical and emotional injuries, and future general and special damages as  
17 herein alleged.

18 237. The bad faith interference by defendants GHS, MEYERS, KELLER, POINT  
19 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants was a  
20 substantial factor in causing each of the afore-mentioned injuries to plaintiffs, and each  
21 of them.

22 238. In doing the things herein alleged, defendants GHS, MEYERS, KELLER, POINT  
23 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants acted  
24 recklessly and with conscious disregard for the rights of plaintiffs, and each of them,  
25 willfully and maliciously exceeding the bounds of all behavior in a civilized behavior,  
26 brutalizing special needs/disabled children who had been entrusted to their care by  
27 their parents so as to receive an education that would allow their children to grow into  
28 well adjusted, well-functioning adults. As a consequence, plaintiffs, and each of them,

are entitled to punitive damages.

### THIRTEENTH CAUSE OF ACTION

#### FRAUD

Asserted by Gloria V.M. against GHS, POINT QUEST, PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOLS; TICKLE, GREGERSON, BRUCE, RAMSEY, MYERS, KELLY, NARAN, TOLLESTRUP, WEBBER, ROYER, DAVIDSON

239. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

240. On or about the date of enrolling their respective children in defendant GHS, defendants, GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, represented to Gloria V.M. that said defendants would not to discriminate in any activity against any student at GHS based on physical or mental disability under Title IX, Education Code section 106.8(a)(d) and 106.9.8(a); that they prohibited intimidation or harassment by any employee of defendants GHS and POINT QUEST against any student based on physical or mental disability; that said defendants and their employees would use Positive Behavior Interventions and Supports to correct inappropriate behavior and to interact with students in a way which promotes social proficiency and academic success, including using "positive language and redirecting behavior using a lesson"; that behavior by GHS' staff when correcting a child would be "calm, consistent, brief, immediate and respectful,"; that GHS and POINT QUEST behavior intervention approaches involved a three step prompt "verbal, modeling, hand-over-hand"; and that restraints would be imposed only if the child was a danger to himself or others so as to de-escalate and re-integrate into classroom activities.

241. On or about the dates of the respective enrollment of Thomas and Jordan V.M., at GHS and POINT QUEST, PLACER and ROCKLIN UNIFIED SCHOOLS and their employees represented to Gloria V.M that they were required to sign a form allowing defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, to impose restraints on said plaintiffs' respective children, with the implied threat that if they did not sign the form their respective children would not be enrolled at GHS, which was the

only school available to educate said children, and therefore, the parents would be in violation of California's mandatory education law.

1  
2 242. That the afore-mentioned representations of defendants, were false, and Gloria  
3 V.M. learned that they were false on or after November 29, 2018, upon the death of  
4 MAX, when they discovered that they did not have to allow or consent to the use of  
5 restraints against their disabled children.

6 243. Said defendants knew that said representations were false when they made  
7 them, and/or said defendants made the representations recklessly and without regard  
8 for the truth of said representations.

9 244. Said defendants intended that GLORIA V.M. rely on said representations.

10 245. GLORIA V.M. reasonably relied on said representations, and enrolled their  
11 respective children at defendant GHS to receive an education.

12 246. GLORIA V.M. were harmed by said intentional representations, in that each of  
13 said plaintiffs suffered severe emotional distress upon seeing their respective child  
14 injured at the hands of GHS and its staff after being placed in prone and other types  
15 of restraints for known behaviors related to the child's special needs and disability, and  
16 which behaviors did not present a clear and present danger to himself or others; and  
17 further plaintiffs, Thomas and Jordan V.M. suffered severe emotional distress when  
18 MAX was injured and killed after he had a behavioral outburst as a result of being  
19 isolated from the rest of the class with no staff member near him to keep him calm.

20 247. GLORIA V.M. reliance on said representations was a substantial factor in  
21 causing the severe emotional distress of said plaintiffs.

22 248. At all relevant times, said defendants acted with conscious disregard of the rights  
23 and feelings of GLORIA V.M. , and acted with the knowledge of, or with reckless  
24 disregard for, the fact that their conduct was certain to cause severe emotional distress  
25 to said plaintiffs. By virtue of the foregoing, said plaintiffs are entitled to recover  
26 punitive and exemplary damages from non-public entity defendants according to proof  
27 at the time of trial.

28 **FOURTEENTH CAUSE OF ACTION**

**Title II of the Americans with Disabilities Act of 1990,  
42 U.S.C. Sec's 12101 et seq.**

Thomas, V.M. and Jordan V.M. vs CDE,  
Rocklin Unified Schools, and Placer County SELPA

249. Plaintiffs incorporate by reference all preceding paragraphs.

250. Title II of the ADA prohibits public entities from denying persons with disabilities the benefits of its programs, services or activities. 28 U.S.C. § 12132.

251. Defendants CDE, Rocklin Unified Schools, and Placer County SELPA are public entities.

252. Thomas, V.M. and Jordan V.M. were at all relevant times students with disabilities who had been placed at GHS via their IEPs.

253. The ADA is violated not only by outright discrimination but also when a public entity engages in "forms of discrimination which deny disabled persons public services disproportionately due to their disability." *Crowder v. Kitagawa*, 81 F. 3d 1480, 1483 (9th Cir. 1996); see also, *Mark H. v. Lemahieu*, 513 F.3d 922, 937 (9th Cir. 2008). The ADA prohibits governmental agencies from denying persons with disabilities from "the benefits" of their programs. *Mark H.*, 513 F.3d at 937. The ADA requires more than just some access to governmental services; it requires "meaningful access". *Id.*

254. A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

- a. Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- b. Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- c. Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the public entity's program;

- d. Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

28 C.F.R. § 35.130(b)(1)(ii)(iii)(v) and (vii).

255. A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration-

- a. That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;
- b. That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's program with respect to individuals with disabilities; or
- c. That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control or are agencies of the same State.

28 C.F.R. § 35.130(b)(3).

256. A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability. 28 C.F.R. § 35.130(b)(6).

257. A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. § 35.130(b)(7).

258. A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. 28 C.F.R. § 35.130(d).

259. The LEA Defendants discriminated against the Plaintiff Students through their contractual arrangements with GHS to provide education services to LEA students with disabilities. Through GHS:

- a. The LEA Defendants provided the Plaintiff Students with educational aid, benefits and services that were not equal to those provided to students without disabilities;

1           b.     The LEA Defendants provided the Plaintiff Students with educational  
2 aid, benefits and services that did not afford equal opportunity to obtain the same  
3 result, to gain the same benefit, or to reach the same level of achievement as that  
4 provided to LEA students without disabilities;

5           c.     The LEA Defendants aided and perpetuated disability discrimination  
6 against the Plaintiff Students by providing significant state and federal financial  
7 assistance to GHS, which discriminated against LEA students on the basis of their  
8 disabilities by subjecting them to repeated physical and emotional abuse in  
9 response to predictable, disability-related behavior which did not constitute a clear  
10 and present danger to the safety of the students or others and which could have  
11 been addressed by less restrictive measures, including those outlined in the  
12 students' behavioral intervention plans;

13           d.     The LEA Defendants limited the Plaintiff Students from enjoying their  
14 right to a free public education in a safe placement, free from discrimination or  
15 abuse; and

16           e.     The LEA Defendants used administrative methods-specifically the  
17 policies and practices of GHS regarding behavioral interventions-that subjected  
18 Plaintiff Students to disability discrimination and defeated or substantially impaired  
19 the objective of providing a free public education to the Plaintiff Students.

20 260.     Moreover, the LEA Defendants directly discriminated against the Plaintiff  
21 Students by administering their public education program and local plans in a  
22 manner that resulted in placing and keeping students with disabilities in an unsafe,  
23 abusive educational placement. The LEA Defendants did not sufficiently-if at  
24 all-investigate, monitor, or supervise the placement. Nor did it acknowledge or direct  
25 GHS to correct its known violations of state and federal law against the Plaintiff  
26 Students. As a result, the Plaintiff Students were not afforded education services  
27 equal to those afforded to other students and were subject to disability  
28 discrimination and repeated physical and emotional abuse.

1       261.     The LEA Defendants failed to make reasonable modifications to their  
2       program of providing special education services to children within the LEA, such that  
3       LEA students with disabilities would not be subject to discrimination and abuse in  
4       their educational placements. These modifications-meaningful investigations and  
5       evaluations of the NPS prior to placing an LEA student there and forceful oversight,  
6       investigation, and measures to ensure compliance with state and federal laws during  
7       the placement, including site visits and regular review of school and student records  
8       and BERs-would not have constituted a fundamental alteration in the LEAs'  
9       programs of providing educational services to their students.

10       262.     GHS's use of restraints was so excessive in frequency, duration, force and  
11       purpose that any educator or monitoring official who personally observed the  
12       program for more than an hour would realize that the school and its staff had  
13       exceeded the legal bounds for emergency interventions and were physically abusing  
14       their students. However, the CDE and the LEAs ignored their legal duties to  
15       supervise and monitor the program and continued to re-certify GHS and place and  
16       leave vulnerable students in the school's care.

17       263.     The LEA Defendants were deliberately indifferent to disability discrimination  
18       and abuse of which they knew or should have known had they taken seriously their  
19       duties to investigate and evaluate GHS prior to placing LEA students there; to  
20       supervise, monitor, investigate, and ensure the legal compliance of GHS during the  
21       placement; and to remove LEA students when it became clear that GHS was not a  
22       safe placement and was subjecting the students to physical and emotional abuse  
23       and discriminating against them on the basis of their disabilities.

24       264.     Defendant CDE knew or should have known that: students with disabilities at  
25       nonpublic schools-including GHS-were being restrained frequently, for excessive  
26       periods of time, with excessive force, and in response to predictable,  
27       disability-related behavior that did not constitute a clear and present danger to the  
28       students' or others' safety; the types of restraints being used against children with  
      disabilities were dangerous and have resulted in serious injury to and death of

1 students with disabilities in response to behavior that was known to be a  
 2 manifestation of the students' disabilities; that the particular disabilities of the  
 3 children against whom these restraints were used made the restraints even more  
 4 dangerous; and that the restraints were not only ineffective and contrary to the  
 5 students' BIPs, but more often than not aggravated the students' behavioral  
 6 problems.

7 265. Defendant CDE discriminated against Plaintiffs on the basis of their  
 8 disabilities by:

- 9 a. Abdicating its duties to supervise, monitor, investigate, train, and  
 10 ensure legal compliance of nonpublic schools, including GHS, with  
 11 laws designed to protect students with disabilities from  
 12 discrimination and abuse;
- 13 b. Failing to take even minimal measures to ensure statewide  
 14 compliance with state and federal laws within nonpublic schools,  
 15 including GHS;
- 16 c. Administering its licensing program of certifying, monitoring,  
 17 investigating and taking corrective action against nonpublic  
 18 schools which provide educational services to children with  
 19 disabilities in a discriminatory, cursory, and indifferent  
 20 manner;
- 21 d. Failing to make reasonable modifications to its policies and  
 22 practices regarding certification, monitoring, supervision,  
 23 investigation, and legal compliance of nonpublic schools in  
 24 light of repeated notifications from the U.S. Department of  
 25 Education and other sources regarding the disproportionate  
 26 use of restraints on children with disabilities and their tragic  
 27 outcomes; and
- 28 e. Completely abandoning its duty to monitor and supervise the use of  
 emergency behavioral interventions in nonpublic schools under  
 Cal. Ed. Code § 56521(b).

266. The CDE knew and was deliberately indifferent to the fact that children with  
 disabilities were being restrained at far greater rates than children without disabilities  
 and that the rates of restraint use were significantly higher at "nonpublic" schools  
 such as GHS than at public schools. It took no action to strengthen its oversight and  
 monitoring of nonpublic schools or laws restricting the use of physical interventions.  
 The CDE knew and was deliberately indifferent to allegations that children with  
 disabilities being improperly restrained at GHS and failed to conduct an emergency

1 site visit when they had a substantial reason to believe that there was an immediate  
2 danger to the health, safety and welfare of students at GHS. The CDE did not  
3 conduct a real investigation or visit the school until after GHS staff killed a student  
4 by restraining him.

5 267. Defendants' actions and failures to act were a substantial factor in causing  
6 physical and emotional injuries to the Plaintiff Students as outlined above.

7 268. Plaintiffs seek compensatory damages and attorneys' fees and costs.

8 **FIFTEENTH CLAIM FOR RELIEF**  
9 **Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

10 Thomas, V.M. and Jordan V.M. vs CDE,  
11 Rocklin Unified Schools, and Placer County SELPA

12 269. Plaintiffs incorporate by reference all preceding paragraphs

13 270. Section 504 prohibits entities that receive federal financial assistance from  
14 denying persons with disabilities the benefits of their programs, services or activities  
15 or otherwise discriminate against them on the basis of their disabilities. 29 U.S.C. §  
16 794; 34 C.F.R. pt. 104.

17 271. Thomas V.M. and Jordan V.M. were at all relevant times students with  
18 disabilities who had been placed at GHS by the LEAs in which they resided via their  
19 IEPs.

20 272. The CDE and the LEA Defendants receive federal financial assistance to  
21 provide special education services to children with disabilities in California. 20  
22 U.S.C. §§ 1411-1413.

23 273. Defendant GHS was a "nonpublic school" that contracted with the LEA  
24 Defendants to provide educational services to students with disabilities, including  
25 the Plaintiff Students, on behalf of the LEA Defendants in exchange for the state  
26 and federal financial assistance provided to the LEA Defendants to perform those  
27 services. Cal. Ed. Code § 56365. Section 504 therefore applies to GHS. 34 C.F.R.  
28 § 104.2 ("This part applies to each recipient of Federal financial assistance from the  
Department of Education and to the program or activity that receives such  
assistance.").

274. Section 504 prohibits recipients of federal financial assistance from directly or through contractual, licensing, or other arrangements, on the basis of disability:

- a. Denying a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit or service;
- b. Affording a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- c. Providing a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others;
- d. Aiding or perpetuating discrimination against a qualified person with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to the beneficiaries of the recipients' program or activity;
- e. Otherwise limiting a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

C.F.R. 104.4(b)(1)(i)(ii)(iii)(v) and (vii).

275. Section 504 prohibits recipients of federal financial assistance from directly or through contractual or other arrangements, utilizing criteria or methods of administration:

- a. That have the effect of subjecting persons with disabilities to discrimination on the basis of their disabilities;
- b. that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the recipient's program or activity with respect to persons with disabilities; or
- c. That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

C.F.R. § 104.4(b)(4).

276. GHS engaged in deliberate discrimination against the Plaintiff Students on the basis of their disabilities. GHS and its staff subjected the Plaintiff Students to illegal, excessive and harmful restraints in response to known, disability-related behaviors that did not constitute a clear and present danger to the safety of the students or others and that could have been addressed by less restrictive measures, including

those outlined in the students' BIPs. GHS discriminated against the Plaintiff Students by:

- a. Denying them the opportunity to participate in educational services free from physical and emotional abuse;
- b. Providing them educational services that were not equal to or as effective as those afforded to children without disabilities;
- c. Preventing students with disabilities from enjoying their rights to receive a free, public education and the benefits that come with it in an environment free from physical and emotional abuse; and
- d. Administration methods, particularly those regarding behavioral interventions that subjected students to disability discrimination and that defeated and/or substantially impaired the accomplishment of the students' educational objectives.

277. The LEA Defendants discriminated against the Plaintiff Students through their contractual arrangements with GHS to provide education services to LEA students with disabilities by:

- a. Denying them the opportunity to participate in educational services free from physical and emotional abuse;
- b. Providing them educational services that were not equal to or as effective as those afforded to children without disabilities;
- c. Preventing students with disabilities from enjoying their rights to receive a free, public education and the benefits that come with it in an environment free from physical and emotional abuse; and
- d. Using administration methods, particularly those regarding behavioral interventions that subjected students to disability discrimination and that defeated and/or substantially impaired the accomplishment of the students' educational objectives.

278. The LEA Defendants aided and perpetuated disability discrimination against the Plaintiff Students by providing significant state and federal financial assistance to GHS, which discriminated against LEA students on the basis of their disabilities by subjecting them to repeated physical and emotional abuse in response to predictable, disability-related behavior which did not constitute a clear and present danger to the safety of the students or others and which could have been addressed by less restrictive measures, including those outlined in the students' behavioral intervention plans.

279. Moreover, the LEA Defendants directly discriminated against the Plaintiff Students by administering their public education program and local plans in a manner that resulted in placing and keeping students with disabilities in an unsafe, abusive educational placement. The LEA Defendants did not sufficiently-if at all-investigate, monitor, or supervise the placement. Nor did they acknowledge or direct GHS to correct its known violations of state and federal law against the Plaintiff Students. As a result, the Plaintiff Students were not afforded education services equal to those afforded to other students and were subject to disability discrimination and repeated physical and emotional abuse.

280. GHS's use of restraints was so excessive in frequency, duration, force and purpose that any educator or monitoring official who personally observed the program for more than an hour would realize that the school and its staff had exceeded the legal bounds for emergency interventions and were physically abusing their students. However, the CDE and the LEAs ignored their legal duties to supervise and monitor the program and continued to re-certify GHS and place and leave vulnerable students in the school's care.

281. The LEA Defendants were deliberately indifferent to disability discrimination and abuse of which they knew or should have known had they taken seriously their duties to investigate and evaluate GHS prior to placing LEA students there; to supervise, monitor, investigate, and ensure the legal compliance of GHS during the placement; and to remove LEA students when it became clear that GHS was not a safe placement and was subjecting the students to physical and emotional abuse and discriminating against them on the basis of their disabilities.

282. Defendant CDE knew or should have known that: students with disabilities at nonpublic schools-including GHS-were being restrained frequently, for excessive periods of time, with excessive force, and in response to predictable, disability-related behavior that did not constitute a clear and present danger to the students' or others' safety; the types of restraints being used against children with disabilities were dangerous and have resulted in serious injury to and death of

1 students with disabilities in response to behavior that was known to be a  
 2 manifestation of the students' disabilities; that the particular disabilities of the  
 3 children against whom these restraints were used made the restraints even more  
 4 dangerous; and that the restraints were not only ineffective and contrary to the  
 5 students' BIPs, but more often than not aggravated the students' behavioral  
 6 problems.

7 283. Defendant CDE discriminated against Plaintiffs on the basis of their  
 8 disabilities by:

- 9 a. Abdicating its monitoring, investigation and compliance duties  
 10 with regard to nonpublic schools, including GHS;
- 11 b. Failing to take even minimal measures to ensure statewide  
 12 compliance with state and federal laws within nonpublic  
 13 schools, including GHS;
- 14 c. Administering its licensing program of certifying, monitoring,  
 15 investigating and taking corrective action against nonpublic  
 16 schools which provide educational services to children with  
 17 disabilities in a discriminatory, cursory, and indifferent manner;
- 18 d. Failing to make reasonable modifications to its policies and  
 19 practices regarding certification, monitoring, supervision,  
 20 investigation, and compliance of nonpublic schools in light of  
 21 repeated notifications from the U.S. Department of Education  
 22 regarding the disproportionate use of restraints on children  
 23 with disabilities and their tragic outcomes; and
- 24 e. Completely abandoning its duty to monitor and supervise the  
 25 use of emergency behavioral interventions in nonpublic  
 26 schools under Cal. Ed. Code § 56521(b).

27 284. The CDE knew and was deliberately indifferent to the fact that children with  
 28 disabilities were being restrained at far greater rates than children without disabilities  
 and that the rates of restraint use were significantly higher at "nonpublic" schools  
 such as GHS than at public schools. It took no action to strengthen its oversight and  
 monitoring of nonpublic schools or laws restricting the use of physical interventions.  
 The CDE knew and was deliberately indifferent to allegations that children with  
 disabilities were being improperly restrained at GHS and failed to conduct an  
 emergency site visit when they had a substantial reason to believe that there was an  
 immediate danger to the health, safety and welfare of students at GHS. The CDE

did not conduct a real investigation or visit the school until after GHS staff killed a student by restraining him.

285. Defendants actions and failures to act were a substantial factor in causing physical and emotional injuries to the Plaintiff Students as outlined above.

286. Plaintiffs seek compensatory damages and attorneys' fees and costs.

### SIXTEENTH CLAIM FOR RELIEF

#### 42 U.S.C. § 1983, Fourth Amendment to the U.S. Constitution

MARQUES, against GHS, KELLER, MYERS, RAMSEY, CHRISTENSEN, CHAMBERS, BRUCE, ZOMBURY, ANDERSON, CORY QUINCY, BYRNA QUINCY, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSON, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;  
DOES 1-100.

287. Plaintiffs incorporate by reference all preceding paragraphs.

288. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, used excessive force against Marques, Thomas, V.M. and Jordan V.M. when they restrained them in response to predictable, disability-related behavior that did not constitute a clear and present danger to Marques, Thomas, V.M. and Jordan V.M. 's or others' safety and that could have been addressed by less restrictive measures, including those outlined in their BIPs. Defendants' use of force was objectively unreasonable in light of

Marques, Thomas, V.M. and Jordan V.M. 's behavior and California law restricting the use of physical interventions. Defendants' use of restraints was also unreasonable in their frequency, duration, pressure and restrictions applied, lack of monitoring of Marques, Thomas, V.M. and Jordan V.M. health condition, and the pain and injuries caused to Marques, Thomas, V.M. and Jordan V.M.

289. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, violated the Plaintiff Students' Fourth Amendment rights when they instituted and maintained a policy and practice at GHS of restraining students in response to predictable, disability-related behavior that did not constitute a clear and present threat to the students' or others' safety and that could have been addressed by less restrictive interventions, such as those outlined in students' BIPs.

290. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, were acting under color of state law when they instituted and practiced a policy of restraining students, including the Plaintiff Students, in response to predictable, disability-related behavior that did not constitute a clear and present threat to the students' or others' safety and that could have been addressed by less restrictive interventions, such as those outlined in students' BIPs.

291. Defendants GHS and POINT QUEST were performing a public function that the LEA Defendants were legally required to provide and for which they were receiving state and federal funds-that of providing free educational services, including special education, to the Plaintiff Students. If an LEA does not have an

1 appropriate special education placement within its district, it may place a student in  
2 a nonpublic school. Cal. Ed. Code § 56365. In turn, the student "will be deemed to  
3 be enrolled in public schools" for the purpose of state and federal funding. Cal. Ed.  
4 Code § 56365(b). However, the LEAs are to monitor and supervise the placement  
5 and transition the student back to the public schools if the NPS is no longer  
6 appropriate to meet the student's needs. Cal. Ed. Code § 56366(a)(2)(B). The  
7 LEA continues to be responsible for the child's placement and special education  
8 needs and must participate in their IEP meetings. 20 U.S.C. § 1414(d)(1)(B)(iv).

9 292. The Plaintiff Students were placed and kept at GHS by the LEA Defendants  
10 pursuant to their IEPs. GHS had a Master Contract with each of the Defendant  
11 LEAs to provide education services to the Plaintiff Students.

12 293. GHS and POINT QUEST sent BERs to the LEA Defendants demonstrating  
13 the excessive and illegal nature of the restraints, but this information was filed away  
14 and ignored. The IEP teams, in which the LEA Defendants participated, did not  
15 review and modify students' BIPs when it was clear they were ineffective or not  
16 being followed. Despite knowing that their students were being illegally restrained  
17 by GHS staff, the LEA Defendants left the Plaintiff Students at the school and did  
18 not take any action to stop the restraints. Because they were unable and unwilling  
19 to provide the educational services themselves, the LEA Defendants ignored and  
20 thereby allowed the violations of Plaintiffs' constitutional rights, knowingly accepting  
21 the benefits of GHS's illegal behavior.

22 294. At all times relevant to the complaint, the individual GHS and POINT QUEST  
23 Defendants were acting in the performance of their official duties to provide  
24 educational services, including special education services, to the Plaintiff Students  
25 pursuant to state and federal law and GHS's contract with the LEA Defendants.

26 295. The GHS and POINT QUEST Defendants knowingly deprived the Plaintiff  
27 Students of their Fourth Amendment rights to be free from excessive force.

28 296. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND  
DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE,

HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, , deprived Plaintiffs Thomas and Jordan V.P. of their Fourth Amendment rights to be free from excessive force. As administrators of the PLACER COUNTY SELPA Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON administrators for ROCKLIN UNIFIED SCHOOLS, were responsible for overseeing the Plan's implementation, which included: 1) coordinating with school districts to ensure that all special education students in the Plan area have equal access to the full continuum of programs and services; 2) working with the school districts to identify unmet student needs and resources to meet those needs; 3) receiving, distributing, and monitoring the use of special education funding; 4) entering into Master Contracts with nonpublic schools, reviewing and monitoring those contracts, issuing and monitoring the assurances for those contracts, and maintaining updated contracts; and 5) submitting for approval to the Superintendents' Council policies and procedures governing regional and District-operated programs, including nonpublic schools. As administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON administrators for ROCKLIN UNIFIED SCHOOLS had a duty to monitor GHS as a nonpublic school with which it had a Master Contract to provide services for students in the Plan area. They also had a duty to monitor the use of special education funding and ensure that it was not going to programs that used behavioral interventions that violated state or federal law. Cal. Ed. Code §§ 56521.2, 56523(d).

297. GHS, MEYER, KELLER, RAMSEY, CHRISTENSEN, ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS, BRUCE, and DOE defendants deprived Plaintiff Marques of his Fourth Amendment rights to be free from excessive force.

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298. Despite widespread knowledge within the educational community about the disproportionate use of excessive, illegal and dangerous restraints on children with disabilities and in nonpublic schools, as administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were deliberately indifferent to the Fourth Amendment rights of students in the YOLO SELPA plan area to be free from excessive force. They maintained a policy and practice within YCOE and YOLO SELPA of ignoring their duties to monitor GHS and ensure that it was complying with state and federal laws prohibiting discrimination and restricting the use of physical behavior interventions.

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299. From media reports, U.S. Department of Education publications and letters, and reports published by nonprofits advocating for students with disabilities, it was well-known within the educational community that children with disabilities were being subjected to illegal restraints at a greater rate than those without disabilities and that nonpublic schools restrained students at higher rates. As administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were deliberately indifferent to this information and failed to implement policies and procedures for training, monitoring and supervision of nonpublic school placements. Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON failed to supervise and train staff to ensure that they understood the laws preventing illegal restraints and were adequately monitoring the NPS placements of PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOL students to ensure that they were not being subjected to excessive force.

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300. At all times relevant to the complaint, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON were acting under color of state law in the performance of their official duties as administrators for public entities, PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOLS.

1       301.     Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth  
2       DAVIDSON 's actions and failures to act were a substantial factor in causing  
3       Thomas and Jordan V.M.'s physical and emotional pain and suffering.

4       302.     Defendants and Defendants Kristain ROYER, Beth DAVIDSON,  
5       administrators for ROCKLIN UNIFIED SCHOOLS

6       303.     Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN  
7       UNIFIED SCHOOLS deprived Jordan V.M. of their Fourth Amendment rights to be  
8       free from excessive force. RUSD and Defendants Kristain ROYER, Beth  
9       DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS wer responsible for  
10      the coordination of special education services and programs within the RUSD and  
11      the implementation of the PLACER COUNTY SELPA plan. This included assuring  
12      that the District's programs-including any nonpublic school in which the District has  
13      placed a special education student-did not discriminate against children on the  
14      basis of disability and followed state and federal education laws, including those  
15      prohibiting the use of excessive force against students. DAVIDSON was the direct  
16      supervisor of Defendant ROYER , the RUSD Program Specialist assigned to  
17      Jordan V.M.. ROYER was responsible for developing Jordan's IEP, ensuring that  
18      Jordan's educational placement at POINT QUEST was appropriate, monitoring the  
19      delivery of services to Jordan, and ensuring that the program in which Jordan had  
20      been placed complied with state and federal laws, including those related to the  
21      use of behavioral interventions and use of physical force. ROYER was also  
22      responsible for coordinating and monitoring the implementation of educational  
23      programs and services at nonpublic schools at which RUSD students had been  
24      placed.

25      304.     Throughout Jordan's's placement at POINT QUEST, ROYER and  
26      DAVIDSON received information and documents demonstrating that POINT  
27      QUEST was subjecting Jordan to excessive force. Specifically, POINT QUEST  
28      staff was placing Jordan in illegal restraints POINT QUEST in response to  
    predictable, disability-related behaviors which did not pose a clear and present

1 danger to the safety of the student or others and could have been addressed by  
2 less restrictive interventions. This information included, but was not limited to,  
3 Behavior Emergency Reports, information provided by POINT QUEST staff at  
4 Jordan's IEP meetings, and documents accompanying Jordan's IEP meetings.

5 305. ROYER AND DAVIDSON were deliberately indifferent to the knowledge that  
6 POINT QUEST was subjecting Jordan to excessive force. Defendants did nothing  
7 to investigate POINT QUEST to stop the restraints, or remove to a safe, approved  
8 placement.

9 306. From media reports, U.S. Department of Education publications and letters,  
10 and reports published by nonprofits advocating for students with disabilities, it was  
11 well-known within the educational community that children with disabilities were  
12 being subjected to illegal restraints at a greater rate than those without disabilities  
13 and that nonpublic schools restrained students at higher rates. As administrators  
14 for ROCKLIN UNIFIED SCHOOLS, Kristain ROYER, Beth DAVIDSON, deprived  
15 Jordan V.M. was deliberately indifferent to this information and failed to implement  
16 policies and procedures for training, monitoring and supervision of nonpublic school  
17 placements. DAVIDSON failed to supervise and train the program specialists  
18 working under her to ensure that they understood the laws preventing illegal  
19 restraints and were adequately monitoring the NPS placements of RUSD students  
20 to ensure that they were not being subjected to excessive force.

21 307. At all times relevant to the complaint, Kristain ROYER, Beth DAVIDSON  
22 were acting under color of state law in the performance of their official duties for  
23 public entity RUSD.

24 308. Kristain ROYER, Beth DAVIDSON's actions and failures to act were a  
25 substantial factor in causing Jordan's physical and emotional pain and suffering.

26 309. GHS, MEYER, KELLER, RAMSEY, ZOMBURY, ANDERSON, ROBB, BRUCE,  
27 CORY, BRYNA, CHRISTENSEN, CHAMBERS, BRUCE, and DOE defendants'  
28 actions and failures to act were a substantial factor in causing Marques' physical and  
emotional pain and suffering.

**DAMAGES**

WHEREFORE, Plaintiffs pray for judgment against Defendants, as follows:

**FIRST CAUSE OF ACTION  
INTERFERENCE WITH THE EXERCISE OF  
CIVIL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTIONS 51et seq**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SECOND CAUSE OF ACTION  
INTERFERENCE WITH PLAINTIFFS' EXERCISE OF CIVIL RIGHTS IN VIOLATION  
OF CALIFORNIA CIVIL CODE SECTION 51.7**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress

6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**THIRD CAUSE OF ACTION  
INTERFERENCE WITH PLAINTIFFS' EXERCISE OF  
CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FOURTH CAUSE OF ACTION  
VIOLATIONS OF CALIFORNIA EDUCATION CODE  
§§ 200, 201, 220 and 260, et seq.**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;

4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FIFTH CAUSE OF ACTION  
ASSAULT AND BATTERY CONSTITUTING TORTURE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SIXTH CAUSE OF ACTION  
ASSAULT AND BATTERY**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;

2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SEVENTH CAUSE OF ACTION  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**EIGHTH CAUSE OF ACTION  
FALSE IMPRISONMENT, CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**NINTH CAUSE OF ACTION  
NEGLIGENCE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress;
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**TENTH CAUSE OF ACTION  
NEGLIGENT SUPERVISION**

- 1 General damages for Pain and suffering in an amount to be determined according to
- 2 proof at trial;
- 3 2. Medical and future medical and related expenses in an amount to be
- 4 determined by proof at trial;
- 5 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 6 4. Impairment of earning capacity for in an amount to be determined by proof at
- 7 trial;
- 8 5. General damages for severe emotional and psychological distress
- 9 6. Pain and suffering;
- 10 7. Statutory damages;
- 11 8. Attorneys' fees;
- 12 9. Costs of this action;
- 13 10. Such other and further relief as the Court deems just and proper.

**ELEVENTH CAUSE OF ACTION  
NEGLIGENCE PER SE**

- 15 1. General damages for Pain and suffering in an amount to be determined
- 16 according to proof at trial;
- 17 2. Medical and future medical and related expenses in an amount to be
- 18 determined by proof at trial;
- 19 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 20 4. Impairment of earning capacity for in an amount to be determined by proof at
- 21 trial;
- 22 5. General damages for severe emotional and psychological distress
- 23 6. Pain and suffering;
- 24 7. Statutory damages;
- 25 8. Attorneys' fees;
- 26 9. Costs of this action;
- 27 10. Such other and further relief as the Court deems just and proper.
- 28

**TWELFTH CAUSE OF ACTION  
Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**THIRTEENTH CAUSE OF ACTION  
FRAUD**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FOURTEENTH CAUSE OF ACTION**  
**Title II of the Americans with Disabilities Act of 1990,**  
**42 U.S.C. Sec's 12101 et seq.**

1 1. Compensatory Damages

2 2. Attorneys' fees and costs

3  
4 **FIFTEENTH CLAIM FOR RELIEF**  
**Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

5 1. Compensatory Damages

6 2. Attorneys' fees and costs

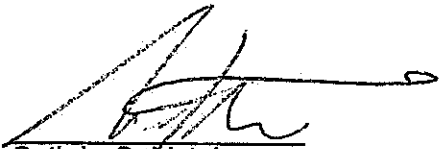
7 **SIXTEENTH CLAIM FOR RELIEF**  
8 **42 U.S.C. § 1983, Fourth Amendment to the U.S. Constitution**

9 1. Compensatory Damages

10 2. Punitive Damages

11 c. Attorneys' fees and costs

12 Dated: October 18, 2021

  
Seth L. Goldstein,  
Attorney at Law

**SUMMONS** ON SECOND AMENDED COMPLAINT  
(CITACION JUDICIAL)

**NOTICE TO DEFENDANT:**  
(AVISO AL DEMANDADO):

GUIDING HANDS SCHOOL, et al. (\*\*\* PLEASE SEE ATTACHMENT 1 \*\*\*)

**YOU ARE BEING SUED BY PLAINTIFF:**  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Louis Andres MARQUES, Gloria V.M., Thomas V.M., and Jordan V.M.

SUM-100

FOR COURT USE ONLY  
NO COURT FILING REQUIRED  
**FILED**

NOV 30 2021

EL DORADO CO. SUPERIOR COURT

BY Wendy J. Narden  
(DEPUTY CLERK)

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.legalhelpcalifornia.org](http://www.legalhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. (AVISO) Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegerá. Su respuesta por escrito tiene que estar en formato legal correcto al darse en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.legalhelpcalifornia.org](http://www.legalhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos extras por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):  
Superior Court of California - County of El Dorado  
3321 Cameron Park Drive  
Cameron Park, CA 95602

CASE NUMBER:  
(Número del Caso):  
PC 202000429

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Beth L. Goldstein, Attorney at Law, 2100 Garden Road, Suite H-8, Monterey, CA 93940 Telephone Number: (831) 372-8511

DATE:  
(Fecha)

NOV 30 2021

Clerk, by  
(Secretario)

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):

Form Adopted for Mandatory Use  
Judicial Council of California  
SUM-100 (Rev. July 1, 2009)

**SUMMONS**

On Second Amended Complaint

Page 1 of 1  
Code of Civil Procedure §§ 412.20, 485  
[www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)

NOV 30 2021  
Exhibit D-1

LOUIE ANDREASE MARQUES, et al.,  
vs.  
GUIDING HANDS SCHOOL, et al.

Case Number: PC20200429

**SUMMONS ON SECOND AMENDED COMPLAINT  
ATTACHMENT 1**

**NOTICE TO DEFENDANT:**

GUIDING HANDS SCHOOL, Inc., (hereinafter "GHS"),, Staranne MEYERS, Cindy KELLER, Phyllis RAMSEY, Jennifer CHRISTENSEN, David CHAMBERS, Noel Doe, Nicole DOE, Roland DOE, Noel COLLIER, Patricia DOE, David DOE, Amanda DOE, Cara BRUCE, Ashley ROBB, Dellores ZUMBURY, Vince ANDERSON, Susan Jane BATTLE and Noelle DOE; STATE OF CALIFORNIA, DEPARTMENT OF EDUCATION; PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, POINT QUEST, Inc., Bill TOLLESTRUP, Bill WEBBER, Nicole DOE, Jennifer DOE; ROCKLIN UNIFIED SCHOOL DISTRICT, Kristain ROYER, Beth DAVIDSON; HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC.

**YOU ARE BEING SUED BY PLAINTIFF:**

Louie Andreas MARQUES, Gloria V.M., Thomas V.M., and Jordan V.M.

**SUMMONS ON SECOND AMENDED COMPLAINT  
ATTACHMENT 1**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Seth L. Goldstein SBN 176882 Law Offices of Seth L. Goldstein  2100 Garden Road, Suite H-8 Monterey, Ca. 93940 TELEPHONE NO.: 831 372 9511 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF El Dorado</b> STREET ADDRESS: 1354 Johnson Blvd. MAILING ADDRESS: CITY AND ZIP CODE: South Lake Tahoe, Ca. BRANCH NAME: Civil	
PLAINTIFF/PETITIONER: Jordan V.M., et al  DEFENDANT/RESPONDENT: Guiding Hands School, et al	
<b>NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL</b>	CASE NUMBER:

TO (insert name of party being served): Len Garfinkel

#### NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: email: 12-30-21

Seth L. Goldstein

(TYPE OR PRINT NAME)

Seth L. Goldstein

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

#### ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of **(to be completed by sender before mailing):**

1. ☒ A copy of the summons and of the complaint.
2. ☒ Other: (specify): Notice of CMC

**(To be completed by recipient):**

Date this form is signed:

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,  
ON WHOSE BEHALF THIS FORM IS SIGNED)

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF  
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

EL DORADO CO. SUPERIOR CT.

FILED NOV 02 2021

BY Randi Corrasa  
Deputy

**Seth L. Goldstein, S.B.N. 176882**  
2100 Garden Road, Suite H-8  
Monterey, California, 93940  
Telephone (831) 372 9511  
Fax (831) 372 9611

**Lead-Counsel for Plaintiffs**

**Merit Bennett, Pro Hac Vice**  
460 St. Michael's Drive, Suite 703  
Santa Fe, New Mexico 87505  
Telephone: (505) 983-9834  
Fax: (505) 983-9836

**Co-Counsel for Plaintiffs**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO**

In the Matter of:

**Louie Andreas MARQUES, Gloria V.M.,  
Thomas V.M., and Jordan V.M.,**

**Plaintiffs**

**vs**

**GUIDING HANDS SCHOOL,  
Inc.(hereinafter "GHS"), , Staranne  
MEYERS, Cindy KELLER, Phylis RAMSEY,  
Jennifer CHRISTENSEN, David  
CHAMBERS, Noel Doe, Nicole DOE,  
Roland DOE, Noel COLLIER, Patricia DOE,  
David DOE, Amanda DOE, Cara BRUCE,  
Ashley ROBB, Dolores ZUMBURY, Vince  
ANDERSON, Susan Jane BATTLE and  
Noelle DOE; STATE OF CALIFORNIA,  
DEPARTMENT OF EDUCATION; PLACER  
COUNTY SELPA, Kristi GREGERSEN, Troy  
TICKLE, POINT QUEST, Inc., Bill  
TOLLESTRUP, Bill WEBBER, Nicole DOE,  
Jennifer DOE; ROCKLIN UNIFIED  
SCHOOL DISTRICT, Kristain ROYER, Beth  
DAVIDSON; HANDLE WITH CARE  
BEHAVIOR MANAGEMENT SYSTEMS,  
INC.**

**Defendants.**

**Case No.: PC20200429**

**SECOND AMENDED  
COMPLAINT FOR DAMAGES**

**JURY TRIAL DEMANDED**

**I. PARTIES**

**Plaintiffs**

1. Plaintiff Louie MARQUES (legal name Louie Andreas MARQUES, hereinafter "MARQUES"), who lives in Sacramento was, at all relevant times herein, a minor child diagnosed as then having Oppositional Defiant Disorder and ADHD. He was a person with a disability as defined by the Unruh Act, with a mental disability as defined in Sections 12926 and 12926.1 of the Government Code.

2. At the relevant times, MARQUES had an IEP that identified predictable behaviors as disrespecting authority, tantrums, disruption of others, yelling, swearing, and kicking.

3. The BIP mandated that staff use verbal prompts, proximity changes, and modeling behaviors sought to be learned.

4. **Plaintiffs Thomas and Jordan V.M.** were children with disabilities as defined in 20 USD 1401(3), and were persons who under the Unruh Act, have a mental disability as defined in Sections 12926 and 12926.1 of the Government Code.

5. Thomas V.M. had an IEP that identified kicking, biting, throwing objects, refusal to participate in activity or follow staff directives, yelling, screaming, grunting or crying with tears as predictable behaviors.

6. His less restrictive corrective measures are identified as monitoring for safety, one step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach" and reapplication of original direction and follow through with original instruction.

7. Jordan V.M. had an IEP that identified non-compliance, physical aggression (kicking, hitting, pushing, biting, and spitting on staff and peers), yelling/screaming, inappropriate gestures and other behavior described as eating crayons and spitting water as predictable behaviors.

8. His less restrictive corrective measures are identified as monitoring for safety, one step directions, neutral tone and affect. If ineffective, prompted with a “3-prompt approach” and reapplication of original direction and follow through with original instruction.

9. **Plaintiff Gloria V.M.** is the adoptive mother of Thomas and Jordan V.M. and is their Guardian Ad Litem.

#### DEFENDANTS

10. **Defendants Guiding Hands School Inc.**, and **Point Quest Inc.** 4900 Windplay Dr., El Dorado Hills, California, located on the same premises having allegedly bought out GHS are non-public schools (hereinafter NPS) incorporated under the laws of the State of California as for-profit corporations and approved by the State of California as institutions providing for children with disabilities.

11. At all times relevant to this Complaint, GHS was a business establishment within the meaning of the Unruh Civil Rights Act. Defendant GHS was an independent contractor with Elk Grove Unified Schools, pursuant to a written contract to perform educational services for Plaintiffs MARQUES, Thomas and Jordan V.M.

12. Presently, and at all times relevant to this Complaint, POINT QUEST is a business establishment within the meaning of the Unruh Civil Rights Act. Defendant POINT QUEST is an independent contractor with Rocklin Unified Schools and Placer County SELPA, pursuant to a written contract to perform educational services for Plaintiff Jordan V.M.

13. Presently, and at all times relevant to this **Complaint, Defendants Rocklin Unified Schools** and **Placer County SELPA** are business establishments within the meaning of the Unruh Civil Rights Act.

14. **Defendant California Department of Education (CDE)**, a department of the State of California, presently, was, and at all times relevant to this Complaint, responsible for inspecting and certifying Non-Public Schools such as GHS and POINT QUEST. It is a business establishment within the meaning of the Unruh Civil Rights Act.

15. **Defendant Handle with Care Behavior Management System, Inc.** Defendant, HWC was a corporation organized under the laws of the State of New York, and doing business in California, marketing a system of restraint and training California teachers to restrain special needs children in prone and other types of restraints.

16. At all times herein mentioned, Bruce Chapman (hereinafter "CHAPMAN"), was the agent and employee, owner, president and founder of HWC, who developed a patented restraint system marketed through HWC to schools in California for use on "behaviorally challenged" children in California schools, including GHS, which lead to the injuries to the student plaintiffs.

17. At all times herein mentioned, defendant, HWC was a corporation organized under the laws of the State of New York, and doing business in California, marketing a system of restraint and training California teachers to restrain special needs children in prone and other types of restraints.

#### **JURISDICTION AND VENUE**

18. Gloria, Thomas, and Jordan V.M. have complied with the Tort Claims filing against CDE, ROCKLIN UNIFIED SCHOOL DISTRICT and PLACER COUNTY SELPA on March 24 , 2019 for injuries and claims herein stated against said public entities. True and correct copies of said claims are attached as **Exhibit A**.

19. Plaintiffs sue all Defendants in El Dorado County because all of the tortious acts occurred at 4900 Windplay Dr., El Dorado Hills, El Dorado County, California.

20. Plaintiffs are informed and believe that each of the Local Educational Agency (LEA) and NPS Defendants is the agent, ostensible agent, alter ego, master, servant, trustor, trustee, employer, employee, representative, affiliate, related entity, partner, and/or associate, or such similar capacity, of each of the other Defendants, and at all times acting and performing, or failing to act or perform, within the course and scope of each similar aforementioned capacities, and with the authorization, consent, permission or ratification of each of the other Defendants, and is personally responsible in some manner for the acts and omissions of the other Defendants in proximately causing the violations and damages complained of herein, and have participated,

directed, and have ostensibly and/or directly approved or ratified each of the acts or omissions of each of the other Defendants, as herein described.

**GHS EMPLOYEES:**

21. At all times herein mentioned, as to Plaintiff MARQUES defendants Staranne Meyers (hereinafter "MEYERS") was the principal and member of the board of GHS, Cindy Keller (hereinafter "KELLER") was the executive director of GHS, Phyllis RAMSEY (hereinafter "RAMSEY") was an administrator for GHS and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs, activities, services, training, staff; and all of whom have direct responsibility for ensuring the safety and well-being of their students, and for ensuring compliance with state and federal laws. MEYERS, KELLER, RAMSEY and DOE defendants allowed and encouraged staff at GHS to intentionally and unlawfully assault and batter Plaintiff MARQUES.

22. At all times herein mentioned, as to Plaintiffs Thomas and Jordan V.M., defendants MEYERS was the principal and member of the board of GHS, KELLER was the executive director of GHS, RAMSEY was an administrator for GHS, Jennifer CHRISTENSEN was an administrator at GHS, NARAN was an administrator at GHS, and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs, activities, services, training, staff; and all of whom have direct responsibility for ensuring the safety and well-being of their students, and for ensuring compliance with state and federal laws. MEYERS, KELLER, CHRISTENSEN, RAMSEY, NARAN, Noel COLLIER (Special Education Teacher), and unknown DOE defendants allowed and encouraged staff at GHS to intentionally and unlawfully assault Plaintiffs Thomas and Jordan V.M.

23. At all times herein mentioned, "Roland" was a driver for GHS and assisted on campus during the time Thomas V.M. was at GHS. "Roland" was also rehired as staff at Defendant Point Quest.

24. At all times herein mentioned, there were two secretary/support staff working the “front desk” at GHS. One was known to Thomas V.M. only as “Nicole” and the other’s name is unknown at this time. On information and belief, “Nicole” was rehired at Defendant Point Quest.

25. At all times herein mentioned, as to Plaintiff MARQUES defendants Delores ZOMBURY (hereinafter “ZOMBURY”), Vince ANDERSON (hereinafter “ANDERSON”), Ashley ROBB (hereinafter “ROBB”), Cary BRUCE (hereinafter “BRUCE”), Cory QUINCEY (hereinafter “CORY”), Bryna QUINCEY (Hereinafter “BRYNA”), David Chambers (hereinafter “CHAMBERS”) Kera BRUCE (Hereinafter “BRUCE” , Susan Jane BATTLE, and DOE defendants were employed as teachers, and aides at GHS, who intentionally and unlawfully assaulted MARQUES and unlawfully inflicted corporal punishment upon him. They had authority and control of the classroom, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of GHS.

26. The names and capacities, whether individual, corporate, otherwise, sued herein as DOES 1-100, inclusive, are presently unknown, and Plaintiff will amend the Complaint to insert them when ascertained.

#### **POINT QUEST EMPLOYEES**

27. Bill Tollestrup, Interim Director of El Dorado Hills, Bill Weber, Director of El Dorado Hills, Nicole DOE, Jennifer DOE, Roland Doe, and DOE defendants were employed as administrators, teachers, and aides at POINT QUEST, who intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and control of the classroom, including policies, practices, procedures, facilities, and activities within the classroom.

28. At all times relevant to this Complaint, Defendant Noel COLLIER, Patricia DOE, David DOE, Amanda DOE, and Noelle DOE were employees of POINT QUEST and were either directly involved in restraining Plaintiff Jordan V.M. or were immediately

present on the premises during the restraints and failed to intercede to protect the plaintiffs.

They are sued in their individual capacity and in their capacity as employees of POINT QUEST.

#### **ROCKLIN UNIFIED SCHOOL EMPLOYEES**

29. Kristain ROYER, Program Specialist, Beth DAVIDSON, Assistant Director of Special Education, and DOE defendants were employed as administrators at RUSD, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

#### **PLACER COUNTY SELPA EMPLOYEES**

30. Kristi Gregersen, Program Specialist, Troy TICKLE, Director, Placer County SELPA, and DOE defendants were employed as administrators at Placer County SELPA, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

31. Plaintiffs MARQUES, Thomas, and Jordan V.M. were placed at GHS and POINT QUEST by their respective school districts after representations were made to the minors' parents about both schools special skills, facilities and safe environment appropriate for their children. The placement was pursuant to each student's Individual Education Plan (IEP), as a result of their diagnosis as children with disabilities, because the school districts themselves determined they were unable to provide a Free Appropriate Public Education.

32. Defendants GHS, POINT QUEST, ROCKLIN UNIFIED SCHOOLS AND PLACER COUNTY SELPA have failed to adequately supervise their employees that resulted in

the foreseeable physical harm to Plaintiffs. Defendants had a statutory duty to ensure that staff who came into contact with Plaintiffs would provide an environment free of abuse and neglect.

33. California law, including Cal Const, Art. I § 28, has long imposed on school authorities a duty to supervise at all times the conduct of children on school grounds and to enforce those rules and regulations necessary for their protection. Defendants also had a duty to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting intentionally or negligently.

34. Defendants have violated their statutory duties to Plaintiff, including their supervisory duties created under California Education Code sections 44807 and 44808.

35. California Penal Code section 11166 which required them to report any knowledge of a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect to the agency immediately or as soon as is practically possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written follow up report thereof within 36 hours of receiving the information concerning the incident.

36. Defendants have violated their statutory duties to Plaintiffs Thomas and Jordan V.M., including multiple violations of California Education Code sections 56521.1 and 56521.2 (and its predecessor legislation) that, in pertinent parts, suggest alternative interventions and/or prohibits the use of any interventions that:

1) cause physical pain; 2) simultaneously immobilize all four extremities, 3) apply an amount of force that exceeds that which is reasonable and necessary under the circumstances, or 4) subjects the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.

37. Defendants have violated their statutory duty under California Penal Code section 11165.4 which prohibits “unlawful corporal punishment or injury” against a child, defined as “any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.”

38. Defendants GHS and POINT QUEST violated its statutory duty under California Education Code section 260 by failing to enact an adequate formal or informal policy to ensure that GHS and POINT QUEST provided a learning environment free from discrimination based on the characteristics provided in California Education Code section 220, specifically disability.

39. GHS was closed in 2018 after the State of California revoked their license to operate following the death of student Max Benson who was subjected to a restraint that killed him.

40. After GHS was closed it was, allegedly, sold to POINT QUEST, and Jordan V.M. then attended Defendant POINT QUEST.

41. When POINT QUEST took over GHS facilities and educational duties, Gloria V.M. was assured by the Rocklin Unified School staff, Placer County SELPA, and POINT QUEST staff, expressly, by inference, or omission, that the previous policies and practices employed by GHS were, not only no longer employed, she was assured that the GHS employees were gone and would not be rehired at POINT QUEST.

42. For more than a decade, the California Department of Education ("CDE"), school districts, county offices of education and Special Education Plan Areas ("SELPAs") -have known that using restraints on students, particularly in response to predictable disability-related behavior, carries serious risks for their physical and emotional health.

43. There have been many reports of students with behavioral challenges dying or sustaining serious injuries due to abusive use of restraint systems, such as the Handle With Care system developed by Defendant Bruce Chapman. It is also well-known that restraints are disproportionately used against children with disabilities.

44. Despite this knowledge, nonpublic schools like Defendants GHS and POINT QUEST and their respective staffs continued to use such restraints frequently, in response to predictable behaviors that did not constitute an immediate or serious threat to the student or others, for extended periods of time, on students whose disabilities elevated the risk of using restraints, and with excessive force.

1 45. They could do so because the CDE, and the LEA Defendants abdicated their  
2 responsibilities to monitor and supervise GHS and POINT QUEST and ensure their  
3 compliance with state and federal laws prohibiting discrimination and the improper use  
4 of restraints.

5 46. The CDE continued to certify GHS continues to currently certify POINT  
6 QUEST, and the LEA Defendants continued to contract with and place their students  
7 with disabilities in the respective schools.

8 47. Plaintiff students with developmental and other disabilities whose local  
9 educational agencies placed them at GHS and POINT QUEST pursuant to their  
10 Individualized Education Plans ("IEP")

11 48. Each Plaintiff Student attended GHS sometime between 2006 and 2018, where  
12 its administrators and staff subjected them to excessive and harmful restraints and  
13 other aggressive physical interventions in response to known behaviors associated with  
14 their disabilities, resulting in physical and emotional abuse and injury, and in the case  
15 of one other student, death.

16 49. GHS was, and POINT QUEST is, a nonpublic school-as that term is defined in  
17 Cal. Ed. Code § 56034-which contracted with the LEA Defendants to provide special  
18 education services to public school students with disabilities in exchange for state and  
19 federal educational funding.

20 50. As required by law, GHS and POINT QUEST entered into Master Contracts with  
21 the LEA's, as well as an Individual Services Agreement for each student placed there.

22 51. Each of the Plaintiff Students' IEP's included a Behavioral Intervention Plan  
23 ("BIP") which described the student's known disability-related behaviors and the  
24 intervention strategies and positive behavioral supports educators should use to  
25 prevent or respond to those behaviors.

26 52. Despite legal requirements (discussed below) and Defendants' knowledge of the  
27 dangers associated with restraints to students' physical and emotional health, GHS and  
28 POINT QUEST administrators and employees engaged in a policy and practice of using  
restraints as a substitute for the positive interventions detailed in the students' BIPs in

response to predictable behavior that did not pose a clear and present danger of serious physical harm to the student or others. GHS and POINT QUEST used restraints against its students frequently, for periods of time that were longer than necessary, and with excessive force.

53. These restraints-including prone restraints- in which the child is placed face down on the floor with one or more adults applying force from above to keep the child's body immobile-frequently lasted over an hour.

54. Some students were restrained frequently, sometimes more than one time each day.

55. The restraints and other aggressive physical interventions inflicted by GHS and POINT QUEST caused the Plaintiff Students physical and emotional injuries.

56. GHS and POINT QUEST administrators were not only aware of the abuse, but encouraged it and were responsible for the school's policy and practice of using frequent, excessive, harmful and lengthy restraints as a substitute for positive behavioral interventions in response to students' predictable, disability-related behaviors.

57. GHS and POINT QUEST did not provide adequate training in positive behavioral interventions, instead relying on Defendant Bruce Chapman's patented restraint system, Handle With Care Behavioral Management Systems, Inc. which was associated with numerous abuses by educational professionals on students with behavioral challenges.

58. GHS and POINT QUEST training in the HWC method ignored requirements of state and federal law and did not provide proper warnings regarding the risks associated with restraining students or safeguards for monitoring and responding to signs of distress.

59. Moreover, GHS and POINT QUEST took significant measures to conceal its illegal use of restraints and child abuse from parents and the LEAs with which it contracted by failing to provide required reports to the parents and the State of California.

60. Prior to the children's placement, GHS misrepresented orally, in enrollment documents, and in the children's IEP that the school focused on proactive, positive behavioral interventions and that corrective behavior would be "calm", "brief", and "respectful."

61. The HWC Intervention Statement that parents had to sign as part of the enrollment packet emphasized positive intervention and "the 3-step prompt" which "entails a verbal request, followed by staff modeling and finally hand over hand with children who may have difficulty following directions . . . ." It represented that a restraint would be used only if the child appeared to be "a physical danger to themselves or others around them".

62. GHS used the HWC terminology in referring to the most dangerous restraint-a prone restraint-as a "neutral" restraint. *Id.* These misrepresentations were repeated in the students' BIPs developed as part of the IEP process and a part of the agreement between the parent/student, the LEA, and GHS.

63. When a student was restrained, GHS frequently failed to complete a Behavioral Emergency Report ("BER"), place the BER in the student's file, send it to the LEA, or notify the student's parent, as required by law and GHS's Master Contracts with the LEAs. Nor did GHS administrators or staff report the regular, systemic child abuse they witnessed and participated in at the school, despite the requirement to do so as mandated reporters.

64. GHS's use of restraints was so excessive in frequency, duration, force and purpose that any educator or monitoring official who personally observed the program for more than an hour would realize that the school and its staff had exceeded the legal bounds for emergency interventions and were physically abusing their students.

65. However, the CDE and the LEAs ignored their legal duties to supervise and monitor the program and continued to place vulnerable students in its care. GHS would still be abusing its students were it not for the death of a 13-year-old student who died after he was held in a prone restraint for almost two hours on November 28, 2018.

66. Plaintiff Thomas V.M. was a disabled student, placed at GHS on August 6, 2018, because of his diagnosis of his disability. Plaintiff Jordan V.M. was a disabled student, placed at GHS on February 22, 2018, because of his diagnosis of disability. All plaintiffs, due to their disabilities, engaged in repetitive conduct that disrupted their educational experience and abilities.

67. Because of the disruption that affected other students, they were frequently placed in such restraints, which included but was not limited to, the imposition of restraints that constituted physical child abuse, battery, and assault.

68. Referring to these restraints as though they were normal and accepted ways of disciplining plaintiffs, Defendant administrators, teachers and assisting staff, as individually identified below, preyed on plaintiffs because of their disability related conduct.

69. These defendants assaulted and battered plaintiffs repeatedly rather than following the BIPs.

70. The LEA administrators, by and through their agency with GHS and POINT QUEST administrators tasked unqualified and inadequately trained staff with supervising plaintiff students, who often failed to document and report incidents of abuse, and failed to take reasonable steps to prevent further abuse.

71. Plaintiffs, like other students who were also subjected to such conduct, would attend class and when a student acted consistently with their predictable behaviors stated in their individual BIP and IEP (and the reason(s) why they were placed at GHS and POINT QUEST) or failed to follow the directions of the GHS and POINT QUEST staff as individually described below, they would be subjected to painful restraints in full and open view of fellow students.

72. Each plaintiff had specific conduct that was identified in their BIP, for which, each plaintiff had a set of less restrictive measures to be taken before a “hands on” physical intervention such as painful restraints would be exercised.

73. Plaintiffs witnessed other students treated in the same way in their respective classes. The observation of such torturous conduct to other students and themselves

caused Plaintiffs who were in their immediate presence to experience fear and anxiety such that they were terrorized in anticipation that they too might be hurt in the same way.

74. As to MARQUES, the documented abuse occurred from as early as December 18, 2006, when Plaintiff MARQUES began attending GHS through March 19, 2008, when he was removed. For Thomas and Jordan V.M., it began when they first began to attend GHS on February 22, 2018, and lasted until they were removed on or about the end of December 2018 and officially, in January, 2019.

75. Shortly after beginning to attend Defendant POINT QUEST, Thomas was assaulted, battered, and restrained in the same fashion as described below. He was removed on or about October 1, 2019 and officially October 22, 2019.

76. No efforts were shown to protect plaintiffs from the continued abuse by the schools' administrations and, in fact, when complaints were made by plaintiff's respective parents, the administration of both schools backed their employees alleging the children were at fault and their employee's actions were necessary.

77. Defendants GHS and POINT QUEST, and their individual staff members as particularly described below, carried out these series of abusive acts upon Plaintiffs and other students, terrorizing them throughout their time at the school generating Plaintiffs' deeply held fears of reoccurrence.

78. The harmful effects of the abuse suffered by all Plaintiffs at the hands of the staff directly abusing him have been compounded by all the Defendants' (as individually named below) willful failure to adequately report, document, respond to, and prevent the abuse.

79. Even after each of the plaintiffs' parents approached the defendants as described below, requesting information about the abuse that would explain the children's injuries, conduct at home, and their account of events, defendant administrators at the respective schools failed to provide any meaningful information regarding what transpired in their children's classroom, covering up their conduct by providing false accounts of the events.

80. Plaintiffs Thomas and Jordan V.M. are in another school in Washington State.

81. The alleged acts and Plaintiffs' damages are such that proceeding through due process before the Office of Administrative Hearings would be both futile and irrelevant.

82. Plaintiffs' injuries cannot be redressed under the IDEA's due process procedures because they were assaulted and are not seeking the types of remedies available under the IDEA, rather seeking remedies for physical and emotional damages resulting from being assaulted.

83. In addition, Plaintiff MARQUES is an adult and outside of the educational system.

84. The same is true for Plaintiffs Thomas and Jordan V.M. who are both outside the State of California in a private religious school.

85. From records to be obtained by Plaintiffs, there were restraint incidents involving Plaintiffs and they expressly reserve their right to amend this Complaint to include additional facts and/or claims as discovery in this case proceeds.

#### **OPERATIVE FACTS**

86. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

#### **AS TO PLAINTIFF MARQUES**

87. Over a one-and-one-half year period as specifically set forth below in each cause of action, Defendants ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOE defendants repeatedly unlawfully assaulted Plaintiff MARQUES by grabbing him, pushing or otherwise forcing him to the floor and, in painful positions, pinning all four appendages for various periods of time, immobilizing him, including as punitive measures. All were either for an unnecessarily prolonged period of time or had failed to utilize the less restrictive measures set forth in his BIP for predictable behaviors related to his disability.

88. MARQUES was a student at GHS from 2006 to 2008. He was referred to GHS by Elk Grove School District employees.

89. MARQUES had both an Individual Education Plan (IEP) and a Behavioral Intervention Plan (BIP) at all relevant times herein.
90. Defendants GHS, MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHRISTENSEN, CHAMBERS and DOE defendants failed to file Behavioral Emergency Reports or document injuries as required by law, so all of the dates of assaults all are unknown to MARQUES at the present time.
91. Those that are identified occurred on Sept. 12, 2006, Dec. 18, 2006, April 16, 2007, April 23, 2007, September 4, 2007, September 5, 2007, October 31, 2007, March 19, 2008, set forth in greater detail below.
92. On September 12, 2006, at 9:50 AM, guiding hands employees Kera Bruce and Ashley ROBB, put MARQUES in a restraint for 12 minutes because he failed to stand appropriately and when escorted from the line he was standing in, kicked a student and Bruce. He was restrained "per CPI". Both Dolores ZOMBURY and David Chapman participated in the restraint.
93. On December 18, 2006, at 1:45 PM Ashley ROBB and Kera Bruce instituted an eight minute restraint after MARQUES had been found to have a toy belonging to another student. What he was told to return the toy he began to kick his desk and a filing cabinet. He was placed in a basket restraint.
94. On April 16, 2007 at 9 AM, MARQUES was put in a restraint for five minutes by ZOMBURY, after he refused to sit down and began throwing pencils and calling children names.
95. On April 17, 2007, at 10 AM, MARQUES was put in a restraint by Dolores ZOMBURY for five minutes after he was told to put a pointer down and had slapped it on the desk of another student. When he was directed to sit down he ran around the room and was restrained.
96. On April 17, 2007, at 10:50 AM, MARQUES was put in a restraint for 30 minutes by Dolores ZOMBURY and subsequently by a teacher's aide known only as "Laure", when MARQUES refused to give back a protein bar and be escorted to his seat. He kicked the teacher and was taken to the "corner".

97. On April 23, 2007, at 8:35 AM, he was placed in a three minute restraint by ZOMBURY after another student had pushed him, rubbing "snot" on his jacket and in response he pushed that student down.

98. On April 23, 2007 11:30 AM, MARQUES was put in a restraint when he began swearing and started to run towards another student after he disregarded a request by the instructor to put his head down on his desk. The staff involved were ZOMBURY and Chambers.

99. On September 5, 2007, 2 PM, MARQUES was put in a restraint by instructor Vince Anderson, because he failed to follow directions and began yelling in the presence of his mother.

100. On March 19, 2008, CORY, BRYNA, CHAMBERS, and DOE defendants restrained MARQUES, forcing him to the floor and containing him in a "basket hold."

101. In this restraint, MARQUES was pushed to the ground and placed in a position for an extended period of time, while his arms were pulled behind his back. GHS staff sat at his back while he was in this position, increasing his pain and making it difficult for him to move.

102. This incident arose when another child assaulted MARQUES with a rock and MARQUES defended himself.

103. When assaulted by GHS staff on March 19, 2008, MARQUES suffered bruises to his chest, burns to his elbows, and severe soft tissue damage to his back and buttocks as a result of these restraints.

104. MARQUES subsequently suffered panic attacks, night-terrors, startles, depression and self-loathing as a result of these restraints.

105. MARQUES was abused on additional occasions while attending GHS.

106. MARQUES will seek leave to allege these dates according to proof when further information becomes available through the discovery process.

107. At all relevant times, MARQUES.'s behaviors were known and predictable and had previously been addressed in his Behavioral Intervention Plan.

108. The restraints imposed upon MARQUES, as herein alleged, constituted child abuse (Penal Code Section 273a), corporal punishment (Penal Code Section 273d) and battery (Penal Code Sec. 242), and torture (Penal Code Section 206) prohibited by California law.

**AS TO THOMAS V.M.**

109. Thomas V.M. was restrained by GHS and POINT QUEST staff on many occasions the precise details are neither known to he nor his mother at this time, other than that described as follows.

110. Thomas V.M. was restrained in some fashion on September 5, 2018, for forty (40) minutes by or in the presence of Defendant Noel COLLIER, who left a phone message for Gloria V.M. on that date informing her of the incident where he refused to participate in an art exercise and was restrained as a result of staff intervention.

111. Thomas V.M. was restrained in some fashion on September 19, 2018, by or in the presence of Defendant Noel COLLIER.

112. Thomas V.M. was restrained in some fashion on October 3, 2018, by or in the presence of Defendant Noel COLLIER, when he refused to cooperate with staff.

113. Thomas V.M. was restrained in some fashion on October 23, 2018, by or in the presence of Defendant Noel COLLIER and David Chambers, when he would not cooperate with staff and bit one on the leg.

114. Thomas V.M. was restrained in some fashion on October 18, 2018, by or in the presence of Defendant Noel COLLIER when he would not cooperate with staff.

115. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 3, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would not give up a ball nor participate in Yoga.

116. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 5, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would participate in his math lesson and threw a pencil and his book.

117. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 19, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would not give up a ball nor participate in school work, threw his paper at Noelle DOW and tried to leave the classroom.

118. Thomas V.M. was restrained by a staff member named “Jennifer” when attending POINT QUEST and, as a result, his mother immediately withdrew him from the school.

119. Thomas V.M. knows that “Jennifer” was a previous staff member at GHS.

120. Thomas V.M. was repeatedly assaulted by “Roland” who was a driver for GHS and who had shoved Thomas, face first, into a wall on various occasions, one of which chipped one of Thomas’s teeth.

121. While attending GHS, Thomas was repeatedly refused food and prevented from eating, despite his mother’s frequent pleas that he be provided the lunch he was sent to school with or that was to have been provided by the GHS staff. Thomas, at all relevant times, was suffering from a thyroid disorder and provided medication that frequently made him hungry. Various unidentified staff, including Nicole Doe, had taken Thomas’s lunch from him before he was finished eating, thereby increasing his discomfort and hunger throughout the day.

**AS TO JORDAN V.M.**

122. Jordan V.M. was restrained by GHS staff on many occasions the precise details are neither known to he nor his mother at this time, other than that described as follows:

123. Jordan V.M. was restrained in a restraint of some fashion on February 26, 2018, by or in the presence of Defendant Amanda Doe, when he would not cooperate on a bus trip home.

124. Jordan V.M. was restrained in a restraint of some fashion on October 10, 2018, by or in the presence of Defendant Noel COLLIER, when he was asked to do class work and threw a crayon.

125. Jordan V.M. was restrained in a restraint of some fashion on October 9, 2018, by an unknown staff member, possibly "Dorian", for an unknown reason.

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**FIRST CAUSE OF ACTION**

**Violation of California Civil Code §§ 51, et seq.**

AS TO PLAINTIFF MARQUES Against GHS;  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
and DOES 1-100.

126. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth herein.

127. Plaintiff MARQUES was a person with disabilities as defined by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. He had been diagnosed with Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder and was limited in the major life activities of learning.

128. Plaintiffs THOMAS and JORDAN V.M. are persons with disabilities as defined by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. They had been diagnosed as Autistic.

129. Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT are businesses establishment covered by California Civil Code §51.

130. GHS, POINT QUEST and their staffs subjected Plaintiffs to physical and emotional abuse in response to behavior that was a manifestation of Plaintiffs' disabilities as described above.

131. GHS and POINT QUEST discriminated against Plaintiffs in that they did not provide them with full and equal enjoyment of GHS' and POINT QUEST's goods, services, facilities, privileges, advantages, or accommodations.

132. Plaintiffs were not provided with the services, facilities, privileges, advantages and accommodations of GHS and POINT QUEST on a basis equal to that afforded to individuals without disabilities.

133. The discipline methods, behavior standards and criteria employed by GHS and POINT QUEST caused Plaintiff to be subjected to physical and emotional abuse as a result of his disabilities.

134. GHS and POINT QUEST failed to make reasonable modifications to their educational and behavioral intervention methods and staff training that were necessary to afford students with disabilities such as Plaintiff equal access to GHS's and POINT QUEST's goods, services, facilities, privileges, advantages and accommodations.

135. The actions and failures to act of GHS and POINT QUEST violated Title III of the Americans with Disabilities Act of 1990, 42 U.S.C. § 121. Defendant has committed additional violations of the Unruh Civil Rights Act in that the conduct alleged herein constitutes a violation of various provisions of the Americans with Disabilities Act, 42 U.S.C. sections 12181, et seq. As such, Defendant's actions also constituted a violation of the Unruh Act under Cal. Civ. Code § 51(f).

136. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

137. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense pursuant to California Civil Code section 52.

138. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

**SECOND CAUSE OF ACTION**  
**Violation of Cal. Civ. 51.7 Ralph Civil Rights Act**  
**AS TO PLAINTIFF MARQUES Against GHS and DOES 1-100;**

AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

139. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth herein.

140. Defendants in doing the acts described above violated Plaintiffs' rights under the Ralph Civil Rights Act.

141. Plaintiffs have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of any characteristic listed or defined in subdivision (b) or (e) of Section 51, because another person perceives them to have one or more of those characteristics.

142. In committing the acts described above, all defendants have violated Plaintiffs' rights by subjecting them to violence and intimidation.

143. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

144. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense pursuant to California Civil Code section 52.

145. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

### **THIRD CAUSE OF ACTION**

#### **For Interference with Exercise of Civil Rights in Violation of California Civil Code Section 52.1**

AS TO PLAINTIFF MARQUES Against GHS,  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

146. Plaintiff incorporate, by reference herein, all preceding paragraphs , as though fully set forth herein.

147. California Civil Code 52.1 provides that it is unlawful to interfere with the exercise

or enjoyment of any rights under the Constitution and the laws of this state and the United States by attempted use of threats, intimidation or coercion.

148. The California Constitution establishes the right to a free public education to all students on an equal basis. *Butt v. California*, 4 Cal. 4th 668, 685 (1992).

149. California Civil Code section 43 guarantees the right of every person to be free from bodily restraint or harm and personal insult.

150. In doing the things herein alleged, Defendants intentionally interfered with and attempted to interfere with Plaintiff's civil rights by threats, intimidation, or coercion.

151. Defendants acted violently against Plaintiff, thereby preventing him from exercising his rights.

152. Defendants' conduct caused Plaintiff to suffer physical and emotional harm.

153. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

154. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged, was a substantial factor in causing said harm to Plaintiff.

155. Defendants' GHS and POINT QUEST's employees, violated Plaintiffs' rights by using a physical restraint technique that impaired Plaintiffs' ability to breathe; placing Plaintiffs in a face down position with the pupil's hands held or restrained behind the pupil's back; and by using a behavioral restraint for longer than was necessary to contain the behavior that allegedly posed a clear and present danger of serious physical harm to the pupil or others.

156. Defendant employees of GHS and POINT QUEST acted with conscious disregard of Plaintiffs' rights and the fact that their conduct was certain to cause injury and/or humiliation to Plaintiffs. Plaintiffs are informed and believe that Defendant employees of GHS and POINT QUEST intended to cause fear, physical injury and/or pain and suffering to Plaintiff. Plaintiff is therefore entitled to recover punitive and exemplary damages.

157. Plaintiff is also entitled to actual and/or statutory damages, as well as reasonable attorneys' fees and costs as set by the Court.

**FOURTH CAUSE OF ACTION**  
**Violation of California Education Code §§ 200, 201, 220, and 260 et seq.**

AS TO PLAINTIFF MARQUES Against GHS,  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

158. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

159. Plaintiffs are individuals with disabilities.

160. At all times relevant to this complaint, Defendant GHS was an educational institution providing education to students from kindergarten through twelfth grade and receiving financial assistance from the State of California.

161. Defendants discriminated against Plaintiff on the basis of their disability by subjecting them to physical and emotional abuse in response to disability-related behavior.

162. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

163. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged, was a substantial factor in causing said harm to Plaintiff.

164. As a proximate cause of the actions of Defendants herein, Plaintiff is entitled to damages in an amount according to proof and reasonable attorneys' fees and costs.

**FIFTH CAUSE OF ACTION**  
Assault and Battery Pursuant to California Penal Code Section 206  
AS TO PLAINTIFFS  
MARQUES, against GHS, KELLER, MYERS, RAMSEY, CHRISTENSEN,  
CHAMBERS, ROBB, BRUCE, ZOMBURY, ANDERSON, CORY QUINCY, BYRNA  
QUINCY, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Thomas V.M. against defendants GHS, CHRISTENSEN, RAMSEY, MYERS,  
KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;  
Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;  
Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe,  
Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;  
EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT;  
DOES 1-100

165. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

166. CHAMBERS, CHRISTENSEN, MEYERS, KELLER, RAMSEY, "JENNIFER" DOE, and DOE defendants , with the intent to cause cruel or extreme pain and suffering for the purpose of persuasion, or for a sadistic purpose, inflicted significant injury upon Plaintiffs by repeatedly assaulting Plaintiffs throwing them to the ground and causing bruises, contusions and lacerations.

167. As a result, Plaintiffs suffered physical and psychological injuries.

168. Defendants acted with the intent to cause injury and that action and intention was despicable, done with a willful and knowing disregard of the rights of Plaintiffs.

169. Defendants acted knowingly and aware of the probable consequences of their conduct and deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel and unjust hardship.

170. Defendants' conduct, assaulting a disabled child is so vile, base, and contemptible that it would be looked down upon and despised by reasonable people.

171. Defendants' conduct in intentionally assaulting and restraining Plaintiffs knowing of their disabilities was malicious and outrageous such that exemplary damages should be awarded.

172. WHEREFORE, Plaintiffs pray for judgment for damages according to proof.

**SIXTH CAUSE OF ACTION  
ASSAULT AND BATTERY**

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe,  
Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;  
EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT DOES 1-100

173. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

174. In doing the things herein alleged, said defendants intended to cause, and did cause Plaintiffs Thomas and Jordan V.M. to suffer harmful or offensive contact.

175. As a result of said conduct of said defendants, Plaintiffs Thomas and Jordan V.M., reasonably believed that they were about to be touched in a harmful or offensive manner, and in a manner that offended a reasonable sense of personal dignity.

176. In doing the things herein alleged, said defendants threatened to touch Thomas and Jordan V.M. in a harmful or in an offensive manner.

177. At all times herein mentioned, it reasonably appeared to MARQUEZ, Thomas and Jordan V.M. that said defendants were about to carry out the threat.

178. At all times herein mentioned, Thomas and Jordan V.M. did not consent to the conduct of said defendants.

179. Thomas and Jordan V.M. suffered harm, as herein alleged.

180. The aforementioned conduct of said defendants was a substantial factor in causing Thomas and Jordan V.M. harm. The conduct of said defendants, caused Thomas and Jordan V.M. to be apprehensive that said defendants would subject Thomas and Jordan V.M. to further intentional invasions of their right to be free from

harmful and offensive contact, and demonstrated that at all times material herein, said defendants had a present ability to subject Thomas and Jordan V.M. to an intentional offensive and harmful touching.

181. Said defendants' unlawful conduct, as herein alleged, was a substantial factor in causing Thomas and Jordan V.M. to suffer physical and emotional injury, and future physical and emotional injury, all in an amount within the jurisdiction of the court according to proof at trial.

182. At all relevant times, said defendants acted with conscious disregard of MARQUEZ, Thomas and Jordan V.M. rights, safety, physical well-being and feelings. Said defendants also acted with the knowledge of, or with reckless disregard for, the fact that their conduct was certain to cause injury and/or humiliation to Thomas and Jordan V.M. Said defendants intended to cause fear, physical injury and/or pain and suffering to Thomas and Jordan V.M.

183. By virtue of the foregoing, the estate of Thomas and Jordan V.M. are entitled to recover punitive and exemplary damages from individual and non-public entity defendants according to proof at trial. Estate of Thomas and Jordan V.M. make no claim for punitive damages against the named defendants.

## SEVENTH CAUSE OF ACTION

### INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, CHRISTENSEN, NARAN, POINT QUEST, RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT;  
DOES 1-100

184. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

185. In doing the things herein alleged, the conduct of said defendants was outrageous in that it was so extreme as to exceed all bounds of that usually tolerated in a civilized community.

186. Said defendants inflicted actual injury and/or acted with reckless disregard of the probability that Plaintiffs Gloria, Thomas and Jordan V.M. would suffer emotional distress, knowing that the children who were restrained, including Gloria, Thomas and Jordan V.M., were present when the conduct occurred.

187. The conduct of said defendants, as herein alleged, was a substantial factor in causing Gloria, Thomas and Jordan V.M., to suffer severe emotional distress, severe mental anguish, humiliation, pain, and physical distress.

188. Said defendants knew or should have known that Thomas and Jordan V.M. did not need to be, for their safety or the safety of others, and did not want to be, physically forced into prolonged prone restraints, standing, seated, settled and/or small child restraints.

189. Said defendants' knowing disregard for the safety of Thomas and Jordan V.M. and said defendants' deliberate failure to monitor and control their behavior towards exceptional needs students, such as Thomas and Jordan V.M. caused Thomas and Jordan V.M. to be repeatedly battered and assaulted by teachers and aides at GHS and POINT QUEST.

190. Said defendants' conduct was extreme and outrageous.

191. Said defendants acted willfully and wantonly, and with reckless disregard for plaintiffs' rights and feelings, and with deliberate indifference to the certainty that Gloria, Thomas and Jordan V.M. would suffer emotional distress.

192. The outrageous conduct of said defendants described herein was willful and malicious and was performed with conscious disregard for the rights, safety, physical well-being and feelings of the Gloria, Thomas and Jordan V.M. As a result, Gloria, Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual and non-public entity defendants in a sum according to proof.

# **EIGHTH CAUSE OF ACTION**

## **FALSE IMPRISONMENT CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

ASSERTED by

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; ROYER, DAVIDSON

193. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

194. Said defendants, in concert with one another, did intentionally and unlawfully, and conspire to, exercise force, threat, implied threat of force, or duress, to restraint and confine Thomas and Jordan V.M. , and deprive them of their freedom of movement, when said defendants committed the acts described herein.

195. Thomas and Jordan V.M. did not knowingly or voluntarily consent to said restraints.

196. As a proximate cause of the restraints, Thomas and Jordan V.M. suffered actual physical and emotional harm, as herein alleged.

197. That the conduct of said defendants, as herein alleged, was a substantial factor in causing harm to Thomas and Jordan V.M.

198. The outrageous conduct of the said defendants was willful and wanton, and was

performed with conscious disregard for the rights, safety, physical well-being and feelings of Thomas and Jordan V.M.

199. As a result, Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual and non-public entity defendants in a sum according to proof at time of trial.

**NINTH CAUSE OF ACTION  
NEGLIGENCE**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST, RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
DOES 1-100

200. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

201. Said defendants breached their duty towards Thomas and Jordan V.M. by:

a. Failure to develop and maintain effective procedures governing emergency interventions;

b. Failure to obtain proper training for use of behavioral emergency interventions

c. Failure to provide oversight on the use of restraints

d. Failure to develop protocols for use of restraints

f. Failure to prohibit restraints on physically disabled children

g. Failure to prohibit prolonged restraints (anything over 15 minutes)

h. Failure to require that Thomas and Jordan V.M. be released from a restraint at the earliest possible moment.

i. Failure to prohibit the use of any restraint when contraindicated by Thomas and Jordan V.M. medical or psychological conditions, which were known to increase the risk of physical injury.

j. Failure to prohibit restraints that constrict the child's ability to breathe.

k. Failure to prohibit the use of multiple staff members in a restraint, which exponentially increases the risk of injury.

l. Failure to provide for the comfort of Thomas and Jordan V.M. while in prone restraint, including, but not limited to: offering Thomas and Jordan V.M. fluids, bathroom use, exercise, range of motion and periodic release of limbs.

m. Failure to require monitoring by staff of the vital signs of the child regularly throughout the restraint.

n. Failure to require continuous, close supervision of a restraint by the HWC trainer or another staff member who is not involved in the restraint.

o. Failure to require immediate and accurate reporting on each restraint

p. Failure to conduct a prompt and thorough review of any restraint imposed as a means to ensure compliance with laws and policies; to ensure continuing safety of students; and to prevent other incidents of restraint.

q. Failure to provide for:

- primary preventative measures rather than restraint;
- interventions that are less intrusive than restraints;
- effective ways to de-escalate situations to avoid restraints; and
- crisis intervention techniques that utilize alternatives to restraint.

1 r. Failure to provide staff with resources and tools to properly respond to  
2 the needs of those whom they serve and to be able to identify and address  
3 the triggers that may cause emotionally disturbed children to react in  
ineffectual ways to the environment.

4 s. Failure to teach students adaptive behaviors, especially involving autistic  
5 children who do not have effective ways of communicating and interacting  
6 with others.

7 t. Allowing use of physical restraints on children which:

- 8 - create an aversive environment counterproductive to facilitating  
9 learning;  
10 - cause significant physical harm, serious, foreseeable long term  
psychological impairment.

11 u. Failure to provide oversight on the use of restraints to determine

- 12 - whether the intervention was necessary  
13 - whether each restraint was implemented in a manner consistent  
14 with staff training, as well as school and District (SELPA) policy.

15 v. Failed to document injuries caused by restraint and

16  
17 w. Failed to get medical attention for a child who was injured while in  
18 restraint.

19 202. As a foreseeable result of the breach of said mandatory duties by said  
20 defendants, said school staff at GHS and POINT QUEST imposed numerous and  
21 prolonged prone restraints on Thomas and Jordan V.M. as hereinabove alleged,  
22 resulting in injuries to Thomas and Jordan V.M.

23 203. Breach of said mandatory duties by said defendants was a substantial factor  
24 in causing injuries Thomas and Jordan V.M.

25 204. At all times herein mentioned said defendants breached the general duties of  
26 due care of educational professionals toward Thomas and Jordan V.M. who were  
27 disabled students under their guidance and care.  
28

205. At all times herein mentioned, said defendants willfully, knowingly,  
intentionally, maliciously, and routinely used or encouraged the use of prone and  
other restraints on special needs/disabled children, including Thomas and Jordan  
V.M. as a form of corporal punishment in violation of California law.

206. At all times herein mentioned, said defendants willfully, knowingly,  
intentionally, maliciously, and routinely used or encouraged the use of prone and  
other restraints, known by said defendants to be dangerous, on disabled children,  
including on Thomas and Jordan V.M. with reckless disregard for the safety of said  
children.

207. At all times herein mentioned, said defendants, in doing each of the afore-  
mentioned acts, willfully, knowingly, intentionally, maliciously, and routinely used, or  
encouraged the use of, prone and other restraints, to injure special needs/disabled  
children and to create a reign of terror within the educational environment, in place  
and instead of providing educational services for special needs/disabled children, for  
which they were hired.

208. As a direct and foreseeable result of the negligence of said defendants  
learning of the death of Max Benson, plaintiffs and their own injuries Thomas and  
Jordan V.M. suffered physical and emotional injuries.

209. The negligence of said defendants was a substantial factor in causing injury  
Thomas and Jordan V.M. to suffer physical and emotional injuries.

210. By virtue of the willful and wanton, knowing, intentional, malicious acts of said  
defendants, and acts by said defendants that were done and acts done in reckless  
disregard for the safety and lives of Thomas and Jordan V.M., Thomas and Jordan  
V.M. are entitled to punitive damages against individual non-public entity  
defendants according to an award at the time of trial.

#### **TENTH CAUSE OF ACTION**

#### **NEGLIGENT SUPERVISION**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST,  
RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer  
Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD,  
RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL  
DISTRICT;  
DOES 1-100

211. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
fully set forth herein.

212. Said defendants had a legal duty to exercise reasonable care in supervising  
special needs students in its respective charge pursuant to California Education Code  
section 44807 and may be held liable for injuries proximately caused by the failure to  
exercise such care.

213. Said defendants failed to exercise reasonable care in supervising Thomas and  
Jordan V.M. when they suffered the abuse as described herein.

214. Said defendants breached their duties to Thomas and Jordan V.M. when they  
failed to supervise Thomas and Jordan V.M., its administrators and staff during the  
abuse, and failed to ensure that GHS and POINT QUEST administrators and staff were  
adequately trained and provided proper supervision.

215. As a direct and proximate result of the actions of said defendants as alleged  
herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages  
according to proof.

#### **ELEVENTH CAUSE OF ACTION**

##### **NEGLIGENCE PER SE**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST,  
RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer  
Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD,  
RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL  
DISTRICT;  
DOES 1-100

216. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
fully set forth herein

217. In doing the things herein alleged, said defendants violated the mandatory duties  
toward Thomas and Jordan V.M. as prescribed by state and federal law as referenced  
in each of the statutes as set forth here-in-above.

218. Said violations were of the statutes specifically intended to protect the class of  
plaintiff and to prevent the injuries as those described herein.

219. Said violations of criminal and civil law were a substantial factor in bringing about  
the harm alleged to Thomas and Jordan V.M. as set forth hereinabove.

220. As a direct and proximate result of the actions of said defendants as alleged  
herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages  
according to proof.

**TWELFTH CAUSE OF ACTION  
Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing**

Asserted by the Plaintiffs Gloria, Thomas and Jordan V.M. Against Defendants GHS,  
Meyers, Keller, Point Quest, Troy Tickle, Kristi Gregerson, Cara Bruce and Doe  
Defendants 1-100

221. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though

1 222. Upon the respective enrollment of Thomas and Jordan V.M. entered into a  
2 written contract with GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
3 Gregerson, Cara Bruce and DOE defendants for the education of their children.

4 223. At all times herein mentioned, Thomas and Jordan V.M. were intended third  
5 party beneficiaries to the afore-mentioned contracts entered into between their parents  
6 and defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
7 Gregerson, Cara Bruce and DOE defendants.

8 224. As a part of said contract, GHS, MEYERS, KELLER, POINT QUEST, Troy  
9 Tickle, Kristi Gregerson, Cara Bruce and DOE defendants provided each of said  
10 parents, with a copy of GHS' and POINT QUEST's parent/teacher handbook in which  
11 GHS and POINT QUEST indicated that they had a system of positive behavior  
12 intervention and support. The GHS handbook also indicated that defendant GHS  
13 would "customize" the system to support student outcomes and "interact with students  
14 in a way that promotes social proficiency." The GHS handbook states that "social  
15 competence is a skill that requires direct teaching." The handbook assured parents  
16 that adult behavior when correcting a child would be "calm", "brief", and "respectful."

17 225. As part of the contract between said parties and defendants GHS, MEYERS,  
18 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
19 defendants promised to plaintiffs, and each of them, not to discriminate in any activity  
20 against any student based on physical or mental disability and further promised to  
21 prohibit intimidation or harassment by any employee of defendant GHS, MEYERS,  
22 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
23 defendants against any student based on physical or mental disability.

24 226. As part of said contract, defendants GHS, MEYERS, KELLER, POINT QUEST,  
25 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
26 and each of them, to use Positive Behavior Interventions and Supports to correct  
27 inappropriate behavior and to interact with students in a way which promotes social  
28 proficiency and academic success, using as examples "positive language and

1 227. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST,  
2 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
3 and each of them, that adult behavior when correcting a child would be “calm,  
4 consistent, brief, immediate and respectful,” and that their behavior intervention  
5 approach involved a three step prompt “verbal, modeling, hand-over-hand.”

6 228. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST,  
7 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
8 and each of them, that restraints would be imposed only if the child was a danger to  
9 himself or others so as to de-escalate and re-integrate into classroom activities; the  
10 restraints and their possible consequences for injury and death were not truthfully or  
11 accurately described to plaintiffs, and each of them, by defendants GHS, MEYERS,  
12 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
13 defendants; and the most dangerous type of restraint, a prone restraint, was described  
14 by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson,  
15 Cara Bruce, and DOE defendants to each of Thomas and Jordan V.M’s parents in  
16 innocuous language as a “neutral” restraint.

17 229. Plaintiffs, and each of them, did all of the significant things that the contract  
18 required them to do.

19 230. At all times herein mentioned, all of the conditions required for defendant GHS,  
20 MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and  
21 DOE defendants had occurred.

22 231. Defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
23 Gregerson, Cara Bruce, and DOE defendants unfairly interfered with the rights of  
24 plaintiffs, and each of them, to receive the benefits of the contract by engaging in the  
25 conduct as herein alleged.

26 232. Defendant GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
27 Gregerson, Cara Bruce, and DOE defendants’ interference with the afore-mentioned  
28 benefits of the contract was done in bad faith in that defendants routinely imposed

corporal punishment, in addition to dangerous prone and other restraints, on special needs/disabled children under their care.

233. By virtue of the bad faith interference with the contract benefits by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with said plaintiffs' contractual rights, plaintiffs MARQUES, Thomas and Jordan V.M., suffered severe emotional distress.

234. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with said plaintiffs' contractual rights are entitled to medical and therapeutic costs.

235. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with said plaintiffs' contractual rights, Gloria V.M. and the beneficiaries of said contract, Thomas and Jordan V.M., have suffered severe emotional and physical distress at having the respective children injured by being placed in prone and other restraints because of their autism and other disabilities.

236. By virtue of said bad faith interference with contractual benefits, all plaintiffs suffered physical and emotional injuries, and future general and special damages as herein alleged.

237. The bad faith interference by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants was a substantial factor in causing each of the afore-mentioned injuries to plaintiffs, and each of them.

238. In doing the things herein alleged, defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants acted recklessly and with conscious disregard for the rights of plaintiffs, and each of them, willfully and maliciously exceeding the bounds of all behavior in a civilized behavior, brutalizing special needs/disabled children who had been entrusted to their care by their parents so as to receive an education that would allow their children to grow into well adjusted, well-functioning adults. As a consequence, plaintiffs, and each of them,

### **THIRTEENTH CAUSE OF ACTION**

#### **FRAUD**

Asserted by Gloria V.M. against GHS, POINT QUEST, PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOLS; TICKLE, GREGERSON, BRUCE, RAMSEY, MYERS, KELLY, NARAN, TOLLESTRUP, WEBBER, ROYER, DAVIDSON

239. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

240. On or about the date of enrolling their respective children in defendant GHS, defendants, GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, represented to Gloria V.M. that said defendants would not to discriminate in any activity against any student at GHS based on physical or mental disability under Title IX, Education Code section 106.8(a)(d) and 106.9.8(a); that they prohibited intimidation or harassment by any employee of defendants GHS and POINT QUEST against any student based on physical or mental disability; that said defendants and their employees would use Positive Behavior Interventions and Supports to correct inappropriate behavior and to interact with students in a way which promotes social proficiency and academic success, including using "positive language and redirecting behavior using a lesson"; that behavior by GHS' staff when correcting a child would be "calm, consistent, brief, immediate and respectful,"; that GHS and POINT QUEST behavior intervention approaches involved a three step prompt "verbal, modeling, hand-over-hand"; and that restraints would be imposed only if the child was a danger to himself or others so as to de-escalate and re-integrate into classroom activities.

241. On or about the dates of the respective enrollment of Thomas and Jordan V.M., at GHS and POINT QUEST, PLACER and ROCKLIN UNIFIED SCHOOLS and their employees represented to Gloria V.M that they were required to sign a form allowing defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, to impose restraints on said plaintiffs' respective children, with the implied threat that if they did not sign the form their respective children would not be enrolled at GHS, which was the

only school available to educate said children, and therefore, the parents would be in violation of California's mandatory education law.

242. That the afore-mentioned representations of defendants, were false, and Gloria V.M. learned that they were false on or after November 29, 2018, upon the death of MAX, when they discovered that they did not have to allow or consent to the use of restraints against their disabled children.

243. Said defendants knew that said representations were false when they made them, and/or said defendants made the representations recklessly and without regard for the truth of said representations.

244. Said defendants intended that GLORIA V.M. rely on said representations.

245. GLORIA V.M. reasonably relied on said representations, and enrolled their respective children at defendant GHS to receive an education.

246. GLORIA V.M. were harmed by said intentional representations, in that each of said plaintiffs suffered severe emotional distress upon seeing their respective child injured at the hands of GHS and its staff after being placed in prone and other types of restraints for known behaviors related to the child's special needs and disability, and which behaviors did not present a clear and present danger to himself or others; and further plaintiffs, Thomas and Jordan V.M. suffered severe emotional distress when MAX was injured and killed after he had a behavioral outburst as a result of being isolated from the rest of the class with no staff member near him to keep him calm.

247. GLORIA V.M. reliance on said representations was a substantial factor in causing the severe emotional distress of said plaintiffs.

248. At all relevant times, said defendants acted with conscious disregard of the rights and feelings of GLORIA V.M. , and acted with the knowledge of, or with reckless disregard for, the fact that their conduct was certain to cause severe emotional distress to said plaintiffs. By virtue of the foregoing, said plaintiffs are entitled to recover punitive and exemplary damages from non-public entity defendants according to proof at the time of trial.

#### FOURTEENTH CAUSE OF ACTION

Thomas, V.M. and Jordan V.M. vs CDE,  
Rocklin Unified Schools, and Placer County SELPA

249. Plaintiffs incorporate by reference all preceding paragraphs.

250. Title II of the ADA prohibits public entities from denying persons with disabilities the benefits of its programs, services or activities. 28 U.S.C. § 12132.

251. Defendants CDE, Rocklin Unified Schools, and Placer County SELPA are public entities.

252. Thomas, V.M. and Jordan V.M. were at all relevant times students with disabilities who had been placed at GHS via their IEPs.

253. The ADA is violated not only by outright discrimination but also when a public entity engages in "forms of discrimination which deny disabled persons public services disproportionately due to their disability." Crowder v. Kitagawa, 81 F. 3d 1480, 1483 (9th Cir. 1996); see also, Mark H. v. Lemahieu, 513 F.3d 922, 937 (9th Cir. 2008). The ADA prohibits governmental agencies from denying persons with disabilities from "the benefits" of their programs. Mark H., 513 F.3d at 937. The ADA requires more than just some access to governmental services; it requires "meaningful access". Id.

254. A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

- a. Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- b. Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- c. Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the public entity's program;

- d. Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

28 C.F.R. § 35.130(b)(1)(ii)(iii)(v) and (vii).

255. A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration-

- a. That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;
- b. That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's program with respect to individuals with disabilities; or
- c. That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control or are agencies of the same State.

28 C.F.R. § 35.130(b)(3).

256. A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability. 28 C.F.R. § 35.130(b)(6).

257. A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. § 35.130(b)(7).

258. A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. 28 C.F.R. § 35.130(d).

259. The LEA Defendants discriminated against the Plaintiff Students through their contractual arrangements with GHS to provide education services to LEA students with disabilities. Through GHS:

- a. The LEA Defendants provided the Plaintiff Students with educational aid, benefits and services that were not equal to those provided to students without disabilities;

b. The LEA Defendants provided the Plaintiff Students with educational aid, benefits and services that did not afford equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to LEA students without disabilities;

c. The LEA Defendants aided and perpetuated disability discrimination against the Plaintiff Students by providing significant state and federal financial assistance to GHS, which discriminated against LEA students on the basis of their disabilities by subjecting them to repeated physical and emotional abuse in response to predictable, disability-related behavior which did not constitute a clear and present danger to the safety of the students or others and which could have been addressed by less restrictive measures, including those outlined in the students' behavioral intervention plans;

d. The LEA Defendants limited the Plaintiff Students from enjoying their right to a free public education in a safe placement, free from discrimination or abuse; and

e. The LEA Defendants used administrative methods-specifically the policies and practices of GHS regarding behavioral interventions-that subjected Plaintiff Students to disability discrimination and defeated or substantially impaired the objective of providing a free public education to the Plaintiff Students.

260. Moreover, the LEA Defendants directly discriminated against the Plaintiff Students by administering their public education program and local plans in a manner that resulted in placing and keeping students with disabilities in an unsafe, abusive educational placement. The LEA Defendants did not sufficiently-if at all-investigate, monitor, or supervise the placement. Nor did it acknowledge or direct GHS to correct its known violations of state and federal law against the Plaintiff Students. As a result, the Plaintiff Students were not afforded education services equal to those afforded to other students and were subject to disability discrimination and repeated physical and emotional abuse.

261. The LEA Defendants failed to make reasonable modifications to their program of providing special education services to children within the LEA, such that LEA students with disabilities would not be subject to discrimination and abuse in their educational placements. These modifications-meaningful investigations and evaluations of the NPS prior to placing an LEA student there and forceful oversight, investigation, and measures to ensure compliance with state and federal laws during the placement, including site visits and regular review of school and student records and BERs-would not have constituted a fundamental alteration in the LEAs' programs of providing educational services to their students.

262. GHS's use of restraints was so excessive in frequency, duration, force and purpose that any educator or monitoring official who personally observed the program for more than an hour would realize that the school and its staff had exceeded the legal bounds for emergency interventions and were physically abusing their students. However, the CDE and the LEAs ignored their legal duties to supervise and monitor the program and continued to re-certify GHS and place and leave vulnerable students in the school's care.

263. The LEA Defendants were deliberately indifferent to disability discrimination and abuse of which they knew or should have known had they taken seriously their duties to investigate and evaluate GHS prior to placing LEA students there; to supervise, monitor, investigate, and ensure the legal compliance of GHS during the placement; and to remove LEA students when it became clear that GHS was not a safe placement and was subjecting the students to physical and emotional abuse and discriminating against them on the basis of their disabilities.

264. Defendant CDE knew or should have known that: students with disabilities at nonpublic schools-including GHS-were being restrained frequently, for excessive periods of time, with excessive force, and in response to predictable, disability-related behavior that did not constitute a clear and present danger to the students' or others' safety; the types of restraints being used against children with disabilities were dangerous and have resulted in serious injury to and death of

students with disabilities in response to behavior that was known to be a manifestation of the students' disabilities; that the particular disabilities of the children against whom these restraints were used made the restraints even more dangerous; and that the restraints were not only ineffective and contrary to the students' BIPs, but more often than not aggravated the students' behavioral problems.

265. Defendant CDE discriminated against Plaintiffs on the basis of their disabilities by:

- a. Abdicating its duties to supervise, monitor, investigate, train, and ensure legal compliance of nonpublic schools, including GHS, with laws designed to protect students with disabilities from discrimination and abuse;
- b. Failing to take even minimal measures to ensure statewide compliance with state and federal laws within nonpublic schools, including GHS;
- c. Administering its licensing program of certifying, monitoring, investigating and taking corrective action against nonpublic schools which provide educational services to children with disabilities in a discriminatory, cursory, and indifferent manner;
- d. Failing to make reasonable modifications to its policies and practices regarding certification, monitoring, supervision, investigation, and legal compliance of nonpublic schools in light of repeated notifications from the U.S. Department of Education and other sources regarding the disproportionate use of restraints on children with disabilities and their tragic outcomes; and
- e. Completely abandoning its duty to monitor and supervise the use of emergency behavioral interventions in nonpublic schools under Cal. Ed. Code § 56521(b).

266. The CDE knew and was deliberately indifferent to the fact that children with disabilities were being restrained at far greater rates than children without disabilities and that the rates of restraint use were significantly higher at "nonpublic" schools such as GHS than at public schools. It took no action to strengthen its oversight and monitoring of nonpublic schools or laws restricting the use of physical interventions. The CDE knew and was deliberately indifferent to allegations that children with disabilities being improperly restrained at GHS and failed to conduct an emergency

site visit when they had a substantial reason to believe that there was an immediate danger to the health, safety and welfare of students at GHS. The CDE did not conduct a real investigation or visit the school until after GHS staff killed a student by restraining him.

267. Defendants' actions and failures to act were a substantial factor in causing physical and emotional injuries to the Plaintiff Students as outlined above.

268. Plaintiffs seek compensatory damages and attorneys' fees and costs.

**FIFTEENTH CLAIM FOR RELIEF**  
**Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

Thomas, V.M. and Jordan V.M. vs CDE,  
Rocklin Unified Schools, and Placer County SELPA

269. Plaintiffs incorporate by reference all preceding paragraphs

270. Section 504 prohibits entities that receive federal financial assistance from denying persons with disabilities the benefits of their programs, services or activities or otherwise discriminate against them on the basis of their disabilities. 29 U.S.C. § 794; 34 C.F.R. pt. 104.

271. Thomas V.M. and Jordan V.M. were at all relevant times students with disabilities who had been placed at GHS by the LEAs in which they resided via their IEPs.

272. The CDE and the LEA Defendants receive federal financial assistance to provide special education services to children with disabilities in California. 20 U.S.C. §§ 1411-1413.

273. Defendant GHS was a "nonpublic school" that contracted with the LEA Defendants to provide educational services to students with disabilities, including the Plaintiff Students, on behalf of the LEA Defendants in exchange for the state and federal financial assistance provided to the LEA Defendants to perform those services. Cal. Ed. Code § 56365. Section 504 therefore applies to GHS. 34 C.F.R. § 104.2 ("This part applies to each recipient of Federal financial assistance from the Department of Education and to the program or activity that receives such assistance.").

274. Section 504 prohibits recipients of federal financial assistance from directly or

through contractual, licensing, or other arrangements, on the basis of disability:

- a. Denying a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit or service;
- b. Affording a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- c. Providing a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others;
- d. Aiding or perpetuating discrimination against a qualified person with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to the beneficiaries of the recipients' program or activity;
- e. Otherwise limiting a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

C.F.R. 104.4(b)(1)(i)(ii)(iii)(v) and (vii).

275. Section 504 prohibits recipients of federal financial assistance from directly or

through contractual or other arrangements, utilizing criteria or methods of

administration:

- a. That have the effect of subjecting persons with disabilities to discrimination on the basis of their disabilities;
- b. that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the recipient's program or activity with respect to persons with disabilities; or
- c. That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

C.F.R. § 104.4(b)(4).

276. GHS engaged in deliberate discrimination against the Plaintiff Students on the basis of their disabilities. GHS and its staff subjected the Plaintiff Students to illegal, excessive and harmful restraints in response to known, disability-related behaviors that did not constitute a clear and present danger to the safety of the students or others and that could have been addressed by less restrictive measures, including

those outlined in the students' BIPs. GHS discriminated against the Plaintiff Students by:

- a. Denying them the opportunity to participate in educational services free from physical and emotional abuse;
- b. Providing them educational services that were not equal to or as effective as those afforded to children without disabilities;
- c. Preventing students with disabilities from enjoying their rights to receive a free, public education and the benefits that come with it in an environment free from physical and emotional abuse; and
- d. Administration methods, particularly those regarding behavioral interventions-that subjected students to disability discrimination and that defeated and/or substantially impaired the accomplishment of the students' educational objectives.

277. The LEA Defendants discriminated against the Plaintiff Students through their contractual arrangements with GHS to provide education services to LEA students with disabilities by:

- a. Denying them the opportunity to participate in educational services free from physical and emotional abuse;
- b. Providing them educational services that were not equal to or as effective as those afforded to children without disabilities;
- c. Preventing students with disabilities from enjoying their rights to receive a free, public education and the benefits that come with it in an environment free from physical and emotional abuse; and
- d. Using administration methods, particularly those regarding behavioral interventions-that subjected students to disability discrimination and that defeated and/or substantially impaired the accomplishment of the students' educational objectives.

278. The LEA Defendants aided and perpetuated disability discrimination against the Plaintiff Students by providing significant state and federal financial assistance to GHS, which discriminated against LEA students on the basis of their disabilities by subjecting them to repeated physical and emotional abuse in response to predictable, disability-related behavior which did not constitute a clear and present danger to the safety of the students or others and which could have been addressed by less restrictive measures, including those outlined in the students' behavioral intervention plans.

279. Moreover, the LEA Defendants directly discriminated against the Plaintiff

Students by administering their public education program and local plans in a manner that resulted in placing and keeping students with disabilities in an unsafe, abusive educational placement. The LEA Defendants did not sufficiently-if at all-investigate, monitor, or supervise the placement. Nor did they acknowledge or direct GHS to correct its known violations of state and federal law against the Plaintiff Students. As a result, the Plaintiff Students were not afforded education services equal to those afforded to other students and were subject to disability discrimination and repeated physical and emotional abuse.

280. GHS's use of restraints was so excessive in frequency, duration, force and purpose that any educator or monitoring official who personally observed the program for more than an hour would realize that the school and its staff had exceeded the legal bounds for emergency interventions and were physically abusing their students. However, the CDE and the LEAs ignored their legal duties to supervise and monitor the program and continued to re-certify GHS and place and leave vulnerable students in the school's care.

281. The LEA Defendants were deliberately indifferent to disability discrimination and abuse of which they knew or should have known had they taken seriously their duties to investigate and evaluate GHS prior to placing LEA students there; to supervise, monitor, investigate, and ensure the legal compliance of GHS during the placement; and to remove LEA students when it became clear that GHS was not a safe placement and was subjecting the students to physical and emotional abuse and discriminating against them on the basis of their disabilities.

282. Defendant CDE knew or should have known that: students with disabilities at nonpublic schools-including GHS-were being restrained frequently, for excessive periods of time, with excessive force, and in response to predictable, disability-related behavior that did not constitute a clear and present danger to the students' or others' safety; the types of restraints being used against children with disabilities were dangerous and have resulted in serious injury to and death of

students with disabilities in response to behavior that was known to be a manifestation of the students' disabilities; that the particular disabilities of the children against whom these restraints were used made the restraints even more dangerous; and that the restraints were not only ineffective and contrary to the students' BIPs, but more often than not aggravated the students' behavioral problems.

283. Defendant CDE discriminated against Plaintiffs on the basis of their disabilities by:

- a. Abdicating its monitoring, investigation and compliance duties with regard to nonpublic schools, including GHS;
- b. Failing to take even minimal measures to ensure statewide compliance with state and federal laws within nonpublic schools, including GHS;
- c. Administering its licensing program of certifying, monitoring, investigating and taking corrective action against nonpublic schools which provide educational services to children with disabilities in a discriminatory, cursory, and indifferent manner;
- d. Failing to make reasonable modifications to its policies and practices regarding certification, monitoring, supervision, investigation, and compliance of nonpublic schools in light of repeated notifications from the U.S. Department of Education regarding the disproportionate use of restraints on children with disabilities and their tragic outcomes; and
- e. Completely abandoning its duty to monitor and supervise the use of emergency behavioral interventions in nonpublic schools under Cal. Ed. Code § 56521(b).

284. The CDE knew and was deliberately indifferent to the fact that children with disabilities were being restrained at far greater rates than children without disabilities and that the rates of restraint use were significantly higher at "nonpublic" schools such as GHS than at public schools. It took no action to strengthen its oversight and monitoring of nonpublic schools or laws restricting the use of physical interventions. The CDE knew and was deliberately indifferent to allegations that children with disabilities were being improperly restrained at GHS and failed to conduct an emergency site visit when they had a substantial reason to believe that there was an immediate danger to the health, safety and welfare of students at GHS. The CDE

did not conduct a real investigation or visit the school until after GHS staff killed a student by restraining him.

285. Defendants actions and failures to act were a substantial factor in causing physical and emotional injuries to the Plaintiff Students as outlined above.

286. Plaintiffs seek compensatory damages and attorneys' fees and costs.

### **SIXTEENTH CLAIM FOR RELIEF**

#### **42 U.S.C. § 1983, Fourth Amendment to the U.S. Constitution**

MARQUES, against GHS, KELLER, MYERS, RAMSEY, CHRISTENSEN, CHAMBERS, BRUCE, ZOMBURY, ANDERSON, CORY QUINCY, BYRNA QUINCY, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSON, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;  
DOES 1-100.

287. Plaintiffs incorporate by reference all preceding paragraphs.

288. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, used excessive force against Marques, Thomas, V.M. and Jordan V.M. when they restrained them in response to predictable, disability-related behavior that did not constitute a clear and present danger to Marques, Thomas, V.M. and Jordan V.M. 's or others' safety and that could have been addressed by less restrictive measures, including those outlined in their BIPs. Defendants' use of force was objectively unreasonable in light of

Marques, Thomas, V.M. and Jordan V.M. 's behavior and California law restricting the use of physical interventions. Defendants' use of restraints was also unreasonable in their frequency, duration, pressure and restrictions applied, lack of monitoring of Marques, Thomas, V.M. and Jordan V.M. health condition, and the pain and injuries caused to Marques, Thomas, V.M. and Jordan V.M.

289. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, violated the Plaintiff Students' Fourth Amendment rights when they instituted and maintained a policy and practice at GHS of restraining students in response to predictable, disability-related behavior that did not constitute a clear and present threat to the students' or others' safety and that could have been addressed by less restrictive interventions, such as those outlined in students' BIPs.

290. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, were acting under color of state law when they instituted and practiced a policy of restraining students, including the Plaintiff Students, in response to predictable, disability-related behavior that did not constitute a clear and present threat to the students' or others' safety and that could have been addressed by less restrictive interventions, such as those outlined in students' BIPs.

291. Defendants GHS and POINT QUEST were performing a public function that the LEA Defendants were legally required to provide and for which they were receiving state and federal funds-that of providing free educational services, including special education, to the Plaintiff Students. If an LEA does not have an

appropriate special education placement within its district, it may place a student in a nonpublic school. Cal. Ed. Code § 56365. In turn, the student "will be deemed to be enrolled in public schools" for the purpose of state and federal funding. Cal. Ed. Code § 56365(b). However, the LEAs are to monitor and supervise the placement and transition the student back to the public schools if the NPS is no longer appropriate to meet the student's needs. Cal. Ed. Code § 56366(a)(2)(B). The LEA continues to be responsible for the child's placement and special education needs and must participate in their IEP meetings. 20 U.S.C. § 1414(d)(1)(B)(iv).

292. The Plaintiff Students were placed and kept at GHS by the LEA Defendants pursuant to their IEPs. GHS had a Master Contract with each of the Defendant LEAs to provide education services to the Plaintiff Students.

293. GHS and POINT QUEST sent BERs to the LEA Defendants demonstrating the excessive and illegal nature of the restraints, but this information was filed away and ignored. The IEP teams, in which the LEA Defendants participated, did not review and modify students' BIPs when it was clear they were ineffective or not being followed. Despite knowing that their students were being illegally restrained by GHS staff, the LEA Defendants left the Plaintiff Students at the school and did not take any action to stop the restraints. Because they were unable and unwilling to provide the educational services themselves, the LEA Defendants ignored and thereby allowed the violations of Plaintiffs' constitutional rights, knowingly accepting the benefits of GHS's illegal behavior.

294. At all times relevant to the complaint, the individual GHS and POINT QUEST Defendants were acting in the performance of their official duties to provide educational services, including special education services, to the Plaintiff Students pursuant to state and federal law and GHS's contract with the LEA Defendants.

295. The GHS and POINT QUEST Defendants knowingly deprived the Plaintiff Students of their Fourth Amendment rights to be free from excessive force.

296. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE,

HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, , deprived Plaintiffs Thomas and Jordan V.P. of their Fourth Amendment rights to be free from excessive force. As administrators of the PLACER COUNTY SELPA Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON administrators for ROCKLIN UNIFIED SCHOOLS, were responsible for overseeing the Plan's implementation, which included: 1) coordinating with school districts to ensure that all special education students in the Plan area have equal access to the full continuum of programs and services; 2) working with the school districts to identify unmet student needs and resources to meet those needs; 3) receiving, distributing, and monitoring the use of special education funding; 4) entering into Master Contracts with nonpublic schools, reviewing and monitoring those contracts, issuing and monitoring the assurances for those contracts, and maintaining updated contracts; and 5) submitting for approval to the Superintendents' Council policies and procedures governing regional and District-operated programs, including nonpublic schools. As administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON administrators for ROCKLIN UNIFIED SCHOOLS had a duty to monitor GHS as a nonpublic school with which it had a Master Contract to provide services for students in the Plan area. They also had a duty to monitor the use of special education funding and ensure that it was not going to programs that used behavioral interventions that violated state or federal law. Cal. Ed. Code §§ 56521.2, 56523(d).

297. GHS, MEYER, KELLER, RAMSEY, CHRISTENSEN, ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS, BRUCE, and DOE defendants deprived Plaintiff Marques of his Fourth Amendment rights to be free from excessive force.

298. Despite widespread knowledge within the educational community about the disproportionate use of excessive, illegal and dangerous restraints on children with disabilities and in nonpublic schools, as administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were deliberately indifferent to the Fourth Amendment rights of students in the YOLO SELPA plan area to be free from excessive force. They maintained a policy and practice within YCOE and YOLO SELPA of ignoring their duties to monitor GHS and ensure that it was complying with state and federal laws prohibiting discrimination and restricting the use of physical behavior interventions.

299. From media reports, U.S. Department of Education publications and letters, and reports published by nonprofits advocating for students with disabilities, it was well-known within the educational community that children with disabilities were being subjected to illegal restraints at a greater rate than those without disabilities and that nonpublic schools restrained students at higher rates. As administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were deliberately indifferent to this information and failed to implement policies and procedures for training, monitoring and supervision of nonpublic school placements. Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON failed to supervise and train staff to ensure that they understood the laws preventing illegal restraints and were adequately monitoring the NPS placements of PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOL students to ensure that they were not being subjected to excessive force.

300. At all times relevant to the complaint, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON were acting under color of state law in the performance of their official duties as administrators for public entities, PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOLS.

301. Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON 's actions and failures to act were a substantial factor in causing Thomas and Jordan V.M.'s physical and emotional pain and suffering.

302. Defendants and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS

303. Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS deprived Jordan V.M. of their Fourth Amendment rights to be free from excessive force. RUSD and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS wer responsible for the coordination of special education services and programs within the RUSD and the implementation of the PLACER COUNTY SELPA plan. This included assuring that the District's programs-including any nonpublic school in which the District has placed a special education student-did not discriminate against children on the basis of disability and followed state and federal education laws, including those prohibiting the use of excessive force against students. DAVIDSON was the direct supervisor of Defendant ROYER , the RUSD Program Specialist assigned to Jordan V.M.. ROYER was responsible for developing Jordan's IEP, ensuring that Jordan's educational placement at POINT QUEST was appropriate, monitoring the delivery of services to Jordan, and ensuring that the program in which Jordan had been placed complied with state and federal laws, including those related to the use of behavioral interventions and use of physical force. ROYER was also responsible for coordinating and monitoring the implementation of educational programs and services at nonpublic schools at which RUSD students had been placed.

304. Throughout Jordan's's placement at POINT QUEST, ROYER and DAVIDSON received information and documents demonstrating that POINT QUEST was subjecting Jordan to excessive force. Specifically, POINT QUEST staff was placing Jordan in illegal restraints POINT QUEST in response to predictable, disability-related behaviors which did not pose a clear and present

danger to the safety of the student or others and could have been addressed by less restrictive interventions. This information included, but was not limited to, Behavior Emergency Reports, information provided by POINT QUEST staff at Jordan's IEP meetings, and documents accompanying Jordan's IEP meetings.

305. ROYER AND DAVIDSON were deliberately indifferent to the knowledge that POINT QUEST was subjecting Jordan to excessive force. Defendants did nothing to investigate POINT QUEST to stop the restraints, or remove to a safe, approved placement.

306. From media reports, U.S. Department of Education publications and letters, and reports published by nonprofits advocating for students with disabilities, it was well-known within the educational community that children with disabilities were being subjected to illegal restraints at a greater rate than those without disabilities and that nonpublic schools restrained students at higher rates. As administrators for ROCKLIN UNIFIED SCHOOLS, Kristain ROYER, Beth DAVIDSON, deprived Jordan V.M. was deliberately indifferent to this information and failed to implement policies and procedures for training, monitoring and supervision of nonpublic school placements. DAVIDSON failed to supervise and train the program specialists working under her to ensure that they understood the laws preventing illegal restraints and were adequately monitoring the NPS placements of RUSD students to ensure that they were not being subjected to excessive force.

307. At all times relevant to the complaint, Kristain ROYER, Beth DAVIDSON were acting under color of state law in the performance of their official duties for public entity RUSD.

308. Kristain ROYER, Beth DAVIDSON's actions and failures to act were a substantial factor in causing Jordan's physical and emotional pain and suffering.

309. GHS, MEYER, KELLER, RAMSEY, ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHRISTENSEN, CHAMBERS, BRUCE, and DOE defendants' actions and failures to act were a substantial factor in causing Marques' physical and emotional pain and suffering.

**DAMAGES**

WHEREFORE, Plaintiffs pray for judgment against Defendants, as follows:

**FIRST CAUSE OF ACTION  
INTERFERENCE WITH THE EXERCISE OF  
CIVIL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTIONS 51et seq**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SECOND CAUSE OF ACTION  
INTERFERENCE WITH PLAINTIFFS' EXERCISE OF CIVIL RIGHTS IN VIOLATION  
OF CALIFORNIA CIVIL CODE SECTION 51.7**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress

6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**THIRD CAUSE OF ACTION  
INTERFERENCE WITH PLAINTIFFS' EXERCISE OF  
CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FOURTH CAUSE OF ACTION  
VIOLATIONS OF CALIFORNIA EDUCATION CODE  
§§ 200, 201, 220 and 260, et seq.**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;

4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FIFTH CAUSE OF ACTION  
ASSAULT AND BATTERY CONSTITUTING TORTURE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SIXTH CAUSE OF ACTION  
ASSAULT AND BATTERY**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;

2. Medical and future medical and related expenses in an amount to be determined by proof at trial;

3. Past and future lost earnings in an amount to be determined by proof at trial;

4. Impairment of earning capacity for in an amount to be determined by proof at trial;

5. General damages for severe emotional and psychological distress

6. Pain and suffering;

7. Statutory damages;

8. Attorneys' fees;

9. Punitive and exemplary damages against all non-public entity Defendants

10. Costs of this action;

11. Such other and further relief as the Court deems just and proper.

**SEVENTH CAUSE OF ACTION  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;

2. Medical and future medical and related expenses in an amount to be determined by proof at trial;

3. Past and future lost earnings in an amount to be determined by proof at trial;

4. Impairment of earning capacity for in an amount to be determined by proof at trial;

5. General damages for severe emotional and psychological distress

6. Pain and suffering;

7. Statutory damages;

8. Attorneys' fees;

9. Punitive and exemplary damages against all non-public entity Defendants

10. Costs of this action;

11. Such other and further relief as the Court deems just and proper.

**EIGHTH CAUSE OF ACTION  
FALSE IMPRISONMENT, CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**NINTH CAUSE OF ACTION  
NEGLIGENCE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress;
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**TENTH CAUSE OF ACTION  
NEGLIGENT SUPERVISION**

- 1 General damages for Pain and suffering in an amount to be determined according to
- 2 proof at trial;
- 3 2. Medical and future medical and related expenses in an amount to be
- 4 determined by proof at trial;
- 5 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 6 4. Impairment of earning capacity for in an amount to be determined by proof at
- 7 trial;
- 8 5. General damages for severe emotional and psychological distress
- 9 6. Pain and suffering;
- 10 7. Statutory damages;
- 11 8. Attorneys' fees;
- 12 9. Costs of this action;
- 13 10. Such other and further relief as the Court deems just and proper.

**ELEVENTH CAUSE OF ACTION  
NEGLIGENCE PER SE**

- 14 1. General damages for Pain and suffering in an amount to be determined
- 15 according to proof at trial;
- 16 2. Medical and future medical and related expenses in an amount to be
- 17 determined by proof at trial;
- 18 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 19 4. Impairment of earning capacity for in an amount to be determined by proof at
- 20 trial;
- 21 5. General damages for severe emotional and psychological distress
- 22 6. Pain and suffering;
- 23 7. Statutory damages;
- 24 8. Attorneys' fees;
- 25 9. Costs of this action;
- 26 10. Such other and further relief as the Court deems just and proper.
- 27
- 28

**TWELFTH CAUSE OF ACTION  
Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**THIRTEENTH CAUSE OF ACTION  
FRAUD**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FOURTEENTH CAUSE OF ACTION**  
**Title II of the Americans with Disabilities Act of 1990,**  
**42 U.S.C. Sec's 12101 et seq.**

1. Compensatory Damages
2. Attorneys' fees and costs


**FIFTEENTH CLAIM FOR RELIEF**  
**Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

1. Compensatory Damages
2. Attorneys' fees and costs

**SIXTEENTH CLAIM FOR RELIEF**  
**42 U.S.C. § 1983, Fourth Amendment to the U.S. Constitution**

1. Compensatory Damages
2. Punitive Damages
- c. Attorneys' fees and costs

Dated: October 18, 2021



Seth L. Goldstein,  
Attorney at Law

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Seth L. Goldstein SBN 176882 Law Offices of Seth L. Goldstein  2100 Garden Road, Suite H-8 Monterey, Ca. 93940 TELEPHONE NO.: 831 372 9511 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF El Dorado STREET ADDRESS: 1354 Johnson Blvd. MAILING ADDRESS: CITY AND ZIP CODE: South Lake Tahoe, Ca. BRANCH NAME: Civil	
PLAINTIFF/PETITIONER: Jordan V.M., et al  DEFENDANT/RESPONDENT: Guiding Hands School, et al	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER:

TO (insert name of party being served): Len Garfinkel

## NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: email: 12-30-21

Seth L. Goldstein

(TYPE OR PRINT NAME)

Seth L. Goldstein

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

## ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

- ☒ A copy of the summons and of the complaint.
- ☒ Other: (specify): Notice of CMC

(To be completed by recipient):

Date this form is signed: January 14, 2022Len Garfinkel, Assistant General Counsel(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,  
ON WHOSE BEHALF THIS FORM IS SIGNED)California Department of Education(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF  
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)California Department of Education

Page 1 of 1

NOTICE AND ACKNOWLEDGMENT OF RECEIPT — CIVIL

Exhibit E

**SETH L. GOLDSTEIN**

Attorney and Counselor At Law

2100 Garden Road, Suite H-8  
Monterey, California 93940  
Ph. (831) 372 9511  
Fax (831) 372 9611

August 28, 2020

El Dorado Superior Court Clerk  
495 Main Street  
Placerville, CA 95667  
Attn: Randi

Re: Rejected Filing August 28, 2020  
Marquez, et al v. Guiding Hands School, et al

Dear Randi,

Per our discussion filed herewith is the complaint, summons, civil cover sheet and fax cover sheet we submitted yesterday at 3:45 pm and which was rejected as not properly formatted as well as not having the summons, civil and fax cover sheets.

All documents were filed in one file, which may be the problem.

Also, the formatting had been lost in transferring from our Word program to our WordPerfect program leaving the complaint single spaced.

Yesterday was the end of the Statute of Limitations and the complaint was filed to preserve that statute.

Please file the document as it was submitted at the proper time with yesterday's date.

If there are any questions, please call my cell number: 707 815 2231 as I am not in the office today and it is closed.

Thank you.

Seth L. Goldstein\*  
Seth L. Goldstein

\*My scanner is not functioning at home,  
please accept my electronic signature.

per Judge Sullivan  
file as of 8-27-2020  
SHWC

**Exhibit F**

**SUMMONS  
(CITACION JUDICIAL)**

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:** Guiding Hands School,  
**(AVISO AL DEMANDADO):** Inc. (hereinafter "GHS", Jennifer GALAS, Staranne MEYERS, Cindy KELLER, David CHAMBERS, STATE OF CALIFORNIA, DEPARTMENT OF EDUCATION, PLACER COUNTY SELPA, Cara BRUCE, Ashley ROB, Dolores ZUMBURY, Vince ANDERSON, POINT QUEST, Inc., ROCKLIN UNIFIED SCHOOL DISTRICT, Noel COLLIER, Patricia DOE, David DOE, Noelle DOE, and Amanda DOE

EL DORADO CO. SUPERIOR CT.

FILED AUG 27 2020

BY

Deputy

**YOU ARE BEING SUED BY PLAINTIFF:** Louie Andreas Marques,  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):** Gloria V.M., Thomas V.M., and Jordan V.M.

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

Superior Court, County of El Dorado  
3321 Cameron Park Drive

CASE NUMBER:  
(Número del Caso):

PC 20200429

Cameron Park, CA 95682

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

831-372-9511 831-372-9611

Seth L. Goldstein  
Law Offices of Seth L. Goldstein  
Monterey, CA 93940

DATE:

AUG 27 2020

(Fecha)

Clerk, by

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

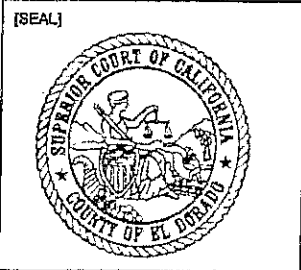
**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

- under:
- |  |   |
|--|---|
| <input type="checkbox"/> CCP 416.10 (corporation)                | <input type="checkbox"/> CCP 416.60 (minor)             |
| <input type="checkbox"/> CCP 416.20 (defunct corporation)        | <input type="checkbox"/> CCP 416.70 (conservatee)       |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (authorized person) |
| <input type="checkbox"/> other (specify):                        |   |

4. ☐ by personal delivery on (date):

Assigned to  
Judge Dylan Sullivan  
For all purposes



N COURT Fax Filing

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Seth L. Goldstein</b> Seth L. Goldstein Law Offices of Seth L. Goldstein 2100 Garden Rd., Ste. H-8 Monterey, CA 93940 TELEPHONE NO.: 831-372-9511 FAX NO.: 831-372-9611		FOR COURT USE ONLY  <b>EL DORADO CO. SUPERIOR CT.</b>  <b>FILED AUG 27 2020</b> BY <u>SHWC</u> Deputy
ATTORNEY FOR (Name): <b>Plaintiffs</b> SUPERIOR COURT OF CALIFORNIA, COUNTY OF El Dorado STREET ADDRESS: 3321 Cameron Park Drive MAILING ADDRESS: CITY AND ZIP CODE: Cameron Park, CA 95682 BRANCH NAME: Civil		CASE NUMBER: <b>PC 20200429</b> JUDGE: Assigned to DEPT: Judge Dylan Sullivan
CASE NAME: Marques, et al. vs. Guiding Hands School, Inc., et al.		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		

Items 1-6 below must be completed (see instructions on page 2). For all purposes

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input checked="" type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (26) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	---	---

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☒ Large number of separately represented parties d. ☒ Large number of witnesses
- b. ☒ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☒ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☒ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☐ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): x14

5. This case ☐ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 27, 2020

Seth L. Goldstein

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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Lead-Counsel for Plaintiffs

EL DORADO CO. SUPERIOR CT.

FILED AUG 27 2020

BY SHWC  
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO

In the Matter of:

Louie Andreas MARQUES, Gloria V.M.,  
Thomas V.M., and Jordan V.M.,

Plaintiffs

vs

GUIDING HANDS SCHOOL, Inc.(hereinafter  
"GHS"),Jennifer GALAS, Staranne  
MEYERS, Cindy KELLER, David  
CHAMBERS, STATE OF CALIFORNIA,  
DEPARTMENT OF EDUCATION, PLACER  
COUNTY SELPA, Cara BRUCE, Ashley ROB,  
Dolores ZUMBURY, Vince ANDERSON,  
POINT QUEST, Inc., ROCKLIN UNIFIED  
SCHOOL DISTRICT, Noel COLLIER,  
Patricia DOE, David DOE, Amanda DOE, and  
Noelle DOE,

Defendants.

Case No.:

PC 20200429

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

Assigned to  
Judge Dylan Sullivan  
For all purposes

INTRODUCTION

Plaintiffs MARQUES, Thomas and Jordan V.M. attended Guiding Hands School, Inc.  
(GHS), a non-public school (NPS) as defined by the education code and certified by the  
California Department of Education (CDE) as such addressing the educational  
requirements children with disabilities. Each of the Plaintiffs were placed at GHS by  
their respective school districts pursuant to an Individual Education Plan (IEP) because

CMS  
Exhibit F

N. Court Fax Filing

1 the school district determined it was unable to provide a Free Appropriate Public  
2 Education.

3 After GHS was closed and sold to Defendant POINT QUEST INC. (POINT QUEST),  
4 Thomas and Jordan V.M. attended Defendant POINT QUEST, a non-public school  
5 (NPS) as defined by the education code and certified by the California Department of  
6 Education (CDE) as such addressing the educational requirements children with  
7 disabilities.  
8

9 1. Guiding Hands School staff engaged in a pattern and practice of illegal use of restraints  
10 for periods of time that were longer than necessary and with excessive force as a means of  
11 punishing children for predictable disability-related behaviors outlined in their individual  
12 Behavioral Intervention Plans (BIP).  
13

14 2. Staff members, rather than following the prescribed BIP, would place children in hurtful  
15 positions, manipulating and restraining the child's body movement in such a way that to move  
16 would cause lasting pain.  
17

18 3. Plaintiff MARQUEZ was a disabled student, placed on March 30, 2006, at GHS because  
19 of his emotional disability. He left GHS on March 19, 2008, after an incident that required  
20 medical attention as a result of actions of school staff placing him in restraint.

21 4. Plaintiff Thomas V.M. was a disabled student, placed \_\_\_\_\_, at GHS because of his  
22 diagnosis of Autism. Plaintiff Jordan V.M. was a disabled student, placed \_\_\_\_\_, at GHS  
23 because of his diagnosis of Autism. All plaintiffs, due to their disabilities, engaged in repetitive  
24 conduct that disrupted their educational experience and abilities. Because of the disruption that  
25 affected other students, they were frequently placed in such restraints, which included but was  
26 not limited to, the imposition of restraints that constituted physical child abuse, battery, and  
27  
28

1 assault.

2 5. Referring to these restraints as though they were normal and accepted ways of  
3 disciplining plaintiffs, Defendant teachers and assisting staff, as individually identified below,  
4 preyed on plaintiffs because of their disability related conduct. These defendants assaulted and  
5 battered plaintiffs repeatedly rather than following the BIPs. GHS administrators tasked  
6 unqualified and inadequately trained staff with supervising plaintiff students, who often failed to  
7 document and report incidents of abuse, and failed to take reasonable steps to prevent further  
8 abuse.  
9

10 6. Plaintiffs, like other students who were also subjected to such conduct, would attend  
11 class and when a student acted consistently with their predictable behaviors stated in their  
12 individual BIP and IEP (and the reason(s) why they were placed at GHS) or failed to follow the  
13 directions of the GHS staff as individually described below, they would be subjected to painful  
14 restraints in full and open view of fellow students. Each plaintiff had specific conduct that was  
15 identified in their BIP, for which, each plaintiff had a set of less restrictive measures to be taken  
16 before a "hands on" physical intervention such as painful restraints would be exercised.  
17

18 7. Plaintiffs witnessed other students treated in the same way in their respective classes.  
19 The observation of such torturous conduct to other students and themselves caused Plaintiffs  
20 who were in their immediate presence to experience fear and anxiety such that they were  
21 terrorized in anticipation that they too might be hurt in the same way.  
22

23 8. As to MARQUES, the documented abuse occurred from as early as December 18, 2006,  
24 when Plaintiff MARQUES began attending GHS through March 19, 2008, when he was  
25 removed. For Thomas and Jordan V.M., it began when they first began to attend GHS in August  
26 of 2018, and lasted until they were removed in \_\_\_\_\_ of 2019.  
27  
28

1 9. Shortly after beginning to attend Defendant POINT QUEST, Thomas was assaulted,  
2 battered, and restrained in the same fashion as described below. He was removed on October 28,  
3 2019.

4 10. No efforts were shown to protect plaintiffs from the continued abuse by the schools'  
5 administrations and, in fact, when complaints were made by plaintiff's respective parents, the  
6 administration of both schools backed their employees alleging the children were at fault and  
7 their employee's actions were necessary. Defendants GHS and POINT QUEST, and their  
8 individual staff members as particularly described below carried out these series of abusive acts  
9 upon Plaintiffs and other students, terrorizing them throughout their time at the school  
10 generating Plaintiffs' deeply held fears of reoccurrence.  
11

12 11. The harmful effects of the abuse suffered by all Plaintiffs at the hands of the staff  
13 directly abusing him have been compounded by all the Defendants' (as individually named  
14 below) willful failure to adequately report, document, respond to, and prevent the abuse. Even  
15 after each of the plaintiffs' parents approached the defendants as described below, requesting  
16 information about the abuse that would explain the children's injuries, conduct at home, and  
17 their account of events, defendant administrators at the respective schools failed to provide any  
18 meaningful information regarding what transpired in their children's classroom, covering up  
19 their conduct by providing false accounts of the events.  
20

21 12. Plaintiff MARQUES is now an adult and no longer in school. Plaintiffs Thomas and  
22 Jordan V.M. are in another school in Washington State. The alleged acts and Plaintiffs' damages  
23 are such that proceeding through due process before the Office of Administrative Hearings  
24 would be both futile and irrelevant. Plaintiffs' injuries cannot be redressed under the IDEA's  
25 due process procedures because they were assaulted and are not seeking the types of remedies  
26  
27  
28

1 available under the IDEA, rather seeking remedies for physical and emotional damages resulting  
2 from being assaulted. In addition, Plaintiff MARQUES is an adult and outside of the  
3 educational system. The same is true for Plaintiffs Thomas and Jordan V.M. who are both  
4 outside the State of California in a private religious school.  
5

6 13. Due to both the nature of Plaintiffs Thomas and Jordan V.M.'s Autism disabilities,  
7 which precluded them from reporting all of the abusive acts at the time of their events, as well  
8 the purposeful concealment of the acts by the defendants as further described below, Plaintiffs  
9 are at this point unable to describe all of the abusive acts directed at them and the exact length of  
10 time the abuse was endured. From records obtained by Plaintiffs, there were restraint incidents  
11 involving Plaintiffs expressly reserve their right to amend this Complaint to include additional  
12 facts and/or claims as discovery in this case proceeds.  
13

#### 14 PARTIES

15 14. At all relevant times, Plaintiff Luis MARQUES (legal name Luis Andreas MARQUES,  
16 hereinafter "MARQUES"), who lives in \_\_\_\_\_ was, at all relevant times herein, a minor child  
17 diagnosed as then having Oppositional Defiant Disorder and ADHD. He was a person with a  
18 disability as defined by the Unruh Act, with a mental disability as defined in Sections 12926 and  
19 12926.1 of the Government Code.  
20

21 15. At the relevant times, MARQUES had an IEP that identified predictable behaviors as  
22 disrespecting authority, tantrums, disruption of others, yelling, swearing, and kicking.  
23

24 16. The BIP mandated that staff use verbal prompts, proximity changes, and modeling  
25 behaviors sought to be learned.

26 17. Plaintiffs Thomas and Jordan V.M. were children with disabilities as defined in 20 USD  
27 1401(3), and were persons who under the Unruh Act, have a mental disability as defined in  
28

1 Sections 12926 and 12926.1 of the Government Code.

2 18. Thomas V.M. had an IEP that identified kicking, biting, throwing objects, refusal to  
3 participate in activity or follow staff directives, yelling, screaming, grunting or crying with tears  
4 as predictable behaviors.  
5

6 19. His less restrictive corrective measures are identified as monitoring for safety, one step  
7 directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach" and  
8 reapplication of original direction and follow through with original instruction.

9 20. Jordan V.M. had an IEP that identified non0compliance, physical aggression (kicking,  
10 hitting, pushing, biting, and spitting on staff and peers), yelling/screaming, inappropriate  
11 gestures and other behavior described as eating crayons and spitting water as predictable  
12 behaviors.  
13

14 21. His less restrictive corrective measures are identified as monitoring for safety, one step  
15 directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach" and  
16 reapplication of original direction and follow through with original instruction.  
17

18 22. Gloria V.M. is the adoptive mother of Thomas and Jordan V.M. and is their Guardian  
19 Ad Litem.

20 **DEFENDANTS**

21 23. Guiding Hands School Inc., 4900 Windplay Dr., El Dorado Hills, California, and POINT  
22 QUEST Inc. (located on the same premises having allegedly bought out GHS) are schools  
23 incorporated under the laws of the State of California as for-profit corporations and approved by  
24 the State of California as institutions providing for children with mental disabilities.

25 24. Presently, and at all times relevant to this Complaint, GHS was and is a business  
26 establishment within the meaning of the Unruh Civil Rights Act. Defendant GHS was an  
27 independent contractor with Elk Grove Unified Schools, Dry Creek Joint Unified Schools,  
28

1 pursuant to a written contract to perform educational services for Plaintiffs MARQUES,  
2 Thomas and Jordan V.M.

3 25. Presently, and at all times relevant to this Complaint, POINT QUEST is a business  
4 establishment within the meaning of the Unruh Civil Rights Act. Defendant POINT QUEST is  
5 an independent contractor with Rocklin Unified Schools and Placer County SELPA, pursuant to  
6 a written contract to perform educational services for Plaintiffs Thomas and Jordan V.M.

7 26. Presently, and at all times relevant to this Complaint, Defendant POINT QUEST is and a  
8 business establishment within the meaning of the Unruh Civil Rights Act. Defendant POINT  
9 QUEST is an independent contractor pursuant to a written contract to perform educational  
10 services for Plaintiffs Thomas and Jordan V.M.

11 27. Presently, and at all times relevant to this Complaint, Defendants ROCKLIN UNIFIED  
12 SCHOOLS and PLACER COUNTY SELPA are business establishments within the meaning of  
13 the Unruh Civil Rights Act.

14 28. Presently, and at all times relevant to this Complaint, the California Department of  
15 Education (CDE) a department of the State of California responsible for inspecting and  
16 certifying Non-Public Schools such as GHS and POINT QUEST. It is a business establishment  
17 within the meaning of the Unruh Civil Rights Act.

18 29. Gloria, Thomas, and Jordan V.M. have complied with the Tort Claims filing against  
19 ROCKLIN UNIFIED SCHOOL DISTRICT and PLACER COUNTY SELPA for injuries  
20 incurred on or after March \_\_\_\_\_, 2019 and claims herein stated against said public entities.

21 **GHS Employees:**

22 30. At all times herein mentioned, as to Plaintiff MARQUES defendants Staranne Meyers  
23 (hereinafter "MEYERS") was the principal and member of the board of GHS, Cindy Keller  
24

1 (hereinafter "KELLER") was the executive director of GHS, Phyllis RAMSEY (hereinafter  
2 "RAMSEY") was an administrator for GHS and DOE defendants were officers, directors, and  
3 administrators of defendant GHS, all of whom have authority and control over GHS's programs,  
4 and facilities, including policies, practices, procedures, programs, activities, services, training,  
5 staff; and all of whom have direct responsibility for ensuring the safety and well-being of their  
6 students, and for ensuring compliance with state and federal laws. MEYERS, KELLER,  
7 RAMSEY and DOE defendants allowed and encouraged staff at GHS to intentionally and  
8 unlawfully assault and batter Plaintiff MARQUEZ.  
9

10 31. At all times herein mentioned, as to Plaintiffs Thomas and Jordan V.M., defendants  
11 MEYERS was the principal and member of the board of GHS, KELLER was the executive  
12 director of GHS, RAMSEY was an administrator for GHS, CHRISTENSEN was an  
13 administrator at GHS, NARAN was an administrator at GHS, and DOE defendants were  
14 officers, directors, and administrators of defendant GHS, all of whom have authority and control  
15 over GHS's programs, and facilities, including policies, practices, procedures, programs,  
16 activities, services, training, staff; and all of whom have direct responsibility for ensuring the  
17 safety and well-being of their students, and for ensuring compliance with state and federal laws.  
18 MEYERS, KELLER, CHRISTENSEN, RAMSEY, NARAN and unknown DOE defendants  
19 allowed and encouraged staff at GHS to intentionally and unlawfully assault Plaintiffs Thomas  
20 and Jordan V.N.  
21

22 32. At all times herein mentioned, as to Plaintiff MARQUES defendants Delores ZOMBURY  
23 (hereinafter "ZOMURY"), Vince ANDERSON (hereinafter "ANDERSON"), Ashley ROBB  
24 (hereinafter "ROBB"), Cary BRUCE (hereinafter "BRUCE"), Cory QUINCEY (hereinafter  
25 "CORY"), Bryna QUINCEY (Hereinafter "BRYNA"), David Chambers (hereinafter  
26  
27  
28

1 "CHAMBERS") and DOE defendants were employed as teachers, and aides at GHS, who  
2 intentionally and unlawfully assaulted MARQUES and unlawfully inflicted corporal  
3 punishment upon him. They had authority and control of the classroom, including policies,  
4 practices, procedures, facilities, and activities within the classroom. They are sued in their  
5 individual capacity and in their capacity as employees of GHS.  
6

7 33. The names and capacities, whether individual, corporate, otherwise, sued herein as DOES  
8 1-10, inclusive, are presently unknown, and Plaintiff will amend the Complaint to insert them  
9 when ascertained.  
10

11 34. Plaintiff sues all Defendants in El Dorado County because all of the tortious acts occurred  
12 at 4900 Windplay Dr., El Dorado Hills, El Dorado County, California.

13 35. Plaintiff is informed and believes that each of the Defendants is the agent, ostensible  
14 agent, alter ego, master, servant, trustor, trustee, employer, employee, representative, affiliate,  
15 related entity, partner, and/or associate, or such similar capacity, of each of the other  
16 Defendants, and at all times acting and performing, or failing to act or perform, within the  
17 course and scope of each similar aforementioned capacities, and with the authorization, consent,  
18 permission or ratification of each of the other Defendants, and is personally responsible in some  
19 manner for the acts and omissions of the other Defendants in proximately causing the violations  
20 and damages complained of herein, and have participated, directed, and have ostensibly and/or  
21 directly approved or ratified each of the acts or omissions of each of the other Defendants, as  
22 herein described.  
23

24 36. Defendants GHS, POINT QUEST, ROCKLIN UNIFIED SCHOOLS AND PLACER  
25 COUNTY SELPA have failed to adequately supervise their employees that resulted in the  
26 foreseeable physical harm to Plaintiffs. Defendants had a statutory duty to ensure that staff who  
27  
28

1 came into contact with Plaintiffs would provide an environment free of abuse and neglect.

2 37. California law, including Cal Const, Art. I § 28, has long imposed on school authorities a  
3 duty to supervise at all times the conduct of children on school grounds and to enforce those  
4 rules and regulations necessary for their protection. Defendants also had a duty to use reasonable  
5 measures to protect students from foreseeable injury at the hands of third parties acting  
6 intentionally or negligently.  
7

8 38. Defendants have violated their statutory duties to Plaintiff, including their supervisory  
9 duties created under California Education Code sections 44807 and 44808.

10 39. California Penal Code section 11166 which required them to report any knowledge of a  
11 child whom the mandated reporter knows or reasonably suspects has been the victim of child  
12 abuse or neglect to the agency immediately or as soon as is practically possible by telephone and  
13 the mandated reporter shall prepare and send, fax, or electronically transmit a written follow up  
14 report thereof within 36 hours of receiving the information concerning the incident.  
15

16 40. Defendants have violated their statutory duties to Plaintiffs Thomas and Jordan V.M.,  
17 including multiple violations of California Education Code sections 56521.1 and 56521.2 which  
18 in pertinent part prohibits the use of any interventions that:  
19

20 1) cause physical pain; 2) simultaneously immobilize all four extremities, 3) apply an  
21 amount of force that exceeds that which is reasonable and necessary under the  
22 circumstances, or 4) subjects the individual to verbal abuse, ridicule, or humiliation, or  
that can be expected to cause excessive emotional trauma.

23 41. Defendants have violated their statutory duty under California Penal Code section 11165.4  
24 which prohibits "unlawful corporal punishment or injury" against a child, defined as "any cruel  
25 or inhuman corporal punishment or injury resulting in a traumatic condition."  
26

27 42. Defendant GHS violated its statutory duty under California Education Code section 260 by  
28 failing to enact an adequate formal or informal policy to ensure that GHS provided a learning

1 environment free from discrimination based on the characteristics provided in California  
2 Education Code section 220, specifically disability.

3  
4 **OPERATIVE FACTS**

5 43. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth  
6 herein.

7 **AS TO PLAINTIFF MARQUES**

8 44. Over a one-and-one-half year period as specifically set forth below in each cause of action,  
9 Defendants ZOMURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and  
10 DOE defendants repeatedly unlawfully assaulted Plaintiff MARQUES by grabbing him, pushing  
11 or otherwise forcing him to the floor and, in painful positions, pinning all four appendages for  
12 various periods of time, immobilizing him, including as punitive measures. All were either for  
13 an unnecessarily prolonged period of time or had failed to utilize the less restrictive measures  
14 set forth in his BIP for predictable behaviors related to his disability.  
15

16 45. MARQUES was a student at GHS from 2006 to 2008. He was referred to GHS by Elk  
17 Grove School District employees.  
18

19 46. MARQUES had both an Individual Education Plan (IEP) and a Behavioral Intervention  
20 Plan (BIP) at all relevant times herein.

21 47. Defendants GHS, MEYERS, KELLER, RAMSEY, ZOMURY, ANDERSON, ROBB,  
22 BRUCE, CORY, BRYNA, CHAMBERS and DOE defendants failed to file Behavioral  
23 Emergency Reports or document injuries as required by law, so all of the dates of assaults all are  
24 unknown to MARQUES at the present time.  
25

26 48. Those that are identified occurred on Sept. 12, 2006, Dec. 18, 2006, April 16, 2007, April  
27 23, 2007, September 4, 2007, September 5, 2007, October 31, 2007, March 19, 2008, set forth  
28

1 in greater detail below.

2 49. On September 12, 2006, at 9:50 AM, guiding hands employees Kera Bruce and Ashley  
3 Rob, put MARQUES in a restraint for 12 minutes because he failed to stand appropriately and  
4 when escorted from the line he was standing in, kicked a student and Bruce. He was restrained  
5 "per CPT". Both Dolores ZOMURY and David Chapman participated in the restraint.  
6

7 50. On December 18, 2006, at 1:45 PM Ashley Rob and Kera Bruce instituted an eight minute  
8 restraint after MARQUES had been found to have a toy belonging to another student. What he  
9 was told to return the toy he began to kick his desk and a filing cabinet. He was placed in a  
10 basket restraint.  
11

12 51. On April 16, 2007 at 9 AM, MARQUES was put in a restraint for five minutes by  
13 ZOMURY, after he refused to sit down and began throwing pencils and calling children names.

14 52. On April 17, 2007, at 10 AM, MARQUES was put in a restraint by Dolores ZOMURY for  
15 five minutes after he was told to put a pointer down and had slapped it on the desk of another  
16 student. When he was directed to sit down he ran around the room and was restrained.  
17

18 53. On April 17, 2007, at 10:50 AM, MARQUES was put in a restraint for 30 minutes by  
19 Dolores ZOMURY and subsequently by a teacher's aide known only as "Laure", when  
20 MARQUES refused to give back a protein bar and be escorted to his seat. He kicked the teacher  
21 and was taken to the "corner".  
22

23 54. On April 23, 2007, at 8:35 AM, he was placed in a three minute restraint by ZOMURY  
24 after another student had pushed him, rubbing quotes not" on his jacket and in response he  
25 pushed that student down.

26 55. On April 23, 2007 11:30 AM, MARQUES was put in a restraint when he began swearing  
27 and started to run towards another student after he disregarded a request by the instructor to put  
28

1 his head down on his desk. The staff involved were ZOMURY and Chambers.

2 56. On September 5, 2007, 2 PM, MARQUES was put in a restraint by instructor Vince  
3 Anderson, because he failed to follow directions and began yelling in the presence of his  
4 mother.  
5

6 57. On March 19, 2008, CORY, BRYNA, CHAMBERS, and DOE defendants restrained  
7 MARQUES, forcing him to the floor and containing him in a "basket hold."

8 58. In this restraint, MARQUES was pushed to the ground and placed in a position for an  
9 extended period of time, while his arms were pulled behind his back. GHS staff sat at his back  
10 while he was in this position, increasing his pain and making it difficult for him to move.  
11

12 59. This incident arose when another child assaulted MARQUES with a rock and MARQUES  
13 defended himself.

14 60. When assaulted by GHS staff on March 19, 2008, MARQUES suffered bruises to his  
15 chest, burns to his elbows, and severe soft tissue damage to his back and buttocks as a result of  
16 these restraints.  
17

18 61. MARQUES subsequently suffered panic attacks, night-terrors, startles, depression and  
19 self-loathing as a result of these restraints.

20 62. MARQUES was abused on additional occasions while attending GHS. MARQUES has  
21 attempted to get documentation from GHS as to the exact dates of the abuse, but has been  
22 unable to obtain any response. MARQUES will seek leave to allege these dates according to  
23 proof when this information becomes available through the discovery process.  
24

25 63. At all relevant times, MARQUES.'s behaviors were known and predictable and had  
26 previously been addressed in his Behavioral Intervention Plan.

27 64. The restraints imposed upon MARQUES, as herein alleged, constituted child abuse (Penal  
28

1 Code Section 273a), corporal punishment (Penal Code Section 273d) and battery (Penal Code  
2 Sec. 242), and torture (Penal Code Section 260) prohibited by California law.

3 65. Without specific details of the restraint and measures taken, Gloria V.M. was informed  
4 that Thomas V.M. was restrained by GHS staff on the following dates:  
5

6 66. Without specific details of the restraint and measures taken, Gloria V.M. was informed  
7 that Jordan V.M. was restrained by GHS staff on the following dates:

8 67. Thomas V.M. was again restrained by a staff member named "Jennifer" when attending  
9 POINT QUEST and, as a result, his mother immediately withdrew him from the school.  
10

11 **FIRST CAUSE OF ACTION**

12 AS TO PLAINTIFF MARQUES Against GHS and DOES 1-10  
13 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST, CDE,  
14 PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT  
15 (Violation of California Civil Code §§ 51, *et seq.*)  
16

17 68. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set  
18 forth herein.

19 69. Defendants' actions described herein violated the Unruh Civil Rights Act, California Civil  
20 Code section 51.  
21

22 70. Plaintiff MARQUES was a person with disabilities as defined by Cal. Civ. Code §  
23 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. He had been diagnosed with Attention  
24 Deficit Hyperactivity Disorder and Oppositional Defiant Disorder and was limited in the major  
25 life activities of learning.  
26

27 71. Plaintiffs THOMAS and JORDAN V.M. are persons with disabilities as defined by Cal.  
28 Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. They had been diagnosed as  
Autistic.

72. Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN

1 SCHOOL DISTRICT are businesses establishment covered by California Civil Code §51.

2 73. GHS, POINT QUEST and their staffs subjected Plaintiffs to physical and emotional abuse  
3 in response to behavior that was a manifestation of Plaintiffs' disabilities as described above.

4 74. GHS and POINT QUEST discriminated against Plaintiffs in that they did not provide them  
5 with full and equal enjoyment of GHS' and POINT QUEST's goods, services, facilities,  
6 privileges, advantages, or accommodations.

7 75. Plaintiffs were not provided with the services, facilities, privileges, advantages and  
8 accommodations of GHS and POINT QUEST on a basis equal to that afforded to individuals  
9 without disabilities.

10 76. The discipline methods, behavior standards and criteria employed by GHS and POINT  
11 QUEST caused Plaintiff to be subjected to physical and emotional abuse as a result of his  
12 disabilities.

13 77. GHS and POINT QUEST failed to make reasonable modifications to their educational and  
14 behavioral intervention methods and staff training that were necessary to afford students with  
15 disabilities such as Plaintiff equal access to GHS's and POINT QUEST's goods, services,  
16 facilities, privileges, advantages and accommodations.

17 78. The actions and failures to act of GHS and POINT QUEST violated Title III of the  
18 Americans with Disabilities Act of 1990, 42 U.S.C. § 121 Defendant has committed additional  
19 violations of the Unruh Civil Rights Act in that the conduct alleged herein constitutes a  
20 violation of various provisions of the Americans with Disabilities Act, 42 U.S.C. sections  
21 12181, *et seq.* As such, Defendant's actions also constituted a violation of the Unruh Act under  
22 Cal. Civ. Code § 51(f).

23 79. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED  
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1 SCHOOLS were the product of joint action between public entities and individual employees.

2 80. Defendants are liable to Plaintiffs for each and every offense for actual damages and  
3 multiple damages of up to three times the actual damages incurred, but in no case less than  
4 \$4000 per offense pursuant to California Civil Code section 52.  
5

6 81. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

7 **SECOND CAUSE OF ACTION**

8 Violation of Cal. Civ. 51.7 Ralph Civil Rights Act

9 AS TO PLAINTIFF MARQUES Against GHS and DOES 1-10

10 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST, CDE,

11 PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT

12 82. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth  
13 herein.  
14

15 83. Defendants in doing the acts described above violated Plaintiffs' rights under the Ralph Civil  
16 Rights Act.

17 84. Plaintiffs have the right to be free from any violence, or intimidation by threat of violence,  
18 committed against their persons or property because of any characteristic listed or defined in  
19 subdivision (b) or (e) of Section 51, because another person perceives them to have one or more of  
20 those characteristics.  
21

22 85. In committing the acts in paragraphs 50 through 68 above, all defendants have violated  
23 Plaintiffs' rights by subjecting them to violence and intimidation.

24 86. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED  
25 SCHOOLS were the product of joint action between public entities and individual employees.

26 87. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple  
27 damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense  
28

1 pursuant to California Civil Code section 52.

2 88. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

3 **FOURTH CAUSE OF ACTION**

4 For Interference with Exercise of Civil Rights in

5 Violation of California Civil Code Section 52.1

6 AS TO PLAINTIFF MARQUES Against GHS and DOES 1-10

7 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST, CDE,  
8 PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT

9 89. Plaintiff incorporate, by reference herein, all preceding paragraphs , as though fully set forth  
10 herein.

11 90. California Civil Code 52.1 provides that it is unlawful to interfere with the exercise or  
12 enjoyment of any rights under the Constitution and the laws of this state and the United States by  
13 attempted use of threats, intimidation or coercion.

14 91. The California Constitution establishes the right to a free public education to all students on  
15 an equal basis. *Butt v. California*, 4 Cal. 4th 668, 685 (1992).

16 92. California Civil Code section 43 guarantees the right of every person to be free from  
17 bodily restraint or harm and personal insult.

18 93. In doing the things herein alleged, Defendants intentionally interfered with and attempted  
19 to interfere with Plaintiff's civil rights by threats, intimidation, or coercion.

20 94. Defendants acted violently against Plaintiff, thereby preventing him from exercising his  
21 rights.

22 95. Defendants' conduct caused Plaintiff to suffer physical and emotional harm.

23 96. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED  
24 SCHOOLS were the product of joint action between public entities and individual employees.  
25  
26  
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1 97. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA  
2 AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged,  
3 was a substantial factor in causing said harm to Plaintiff.

4 98. Defendants' GHS and POINT QUEST's employees, violated Plaintiffs' rights by using a  
5 physical restraint technique that impaired Plaintiffs' ability to breathe; placing Plaintiffs in a  
6 facedown position with the pupil's hands held or restrained behind the pupil's back; and by using  
7 a behavioral restraint for longer than was necessary to contain the behavior that allegedly posed  
8 a clear and present danger of serious physical harm to the pupil or others.

9 99. Defendant employees of GHS and POINT QUEST acted with conscious disregard of  
10 Plaintiffs' rights and the fact that their conduct was certain to cause injury and/or humiliation to  
11 Plaintiffs. Plaintiffs are informed and believe that Defendant employees of GHS and POINT  
12 QUEST intended to cause fear, physical injury and/or pain and suffering to Plaintiff. Plaintiff is  
13 therefore entitled to recover punitive and exemplary damages.

14 100. Plaintiff is also entitled to actual and/or statutory damages, as well as reasonable attorneys'  
15 fees and costs as set by the Court.

16  
17  
18  
19 **FIFTH CAUSE OF ACTION**

20 (Violation of California Education Code §§ 200, 201, 220, and 260 et seq. -  
21 Against Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN  
22 SCHOOL DISTRICT MEYERS, KELLER, RAMSEY, ZOMURY, ANDERSON, ROBB,  
BRUCE, CORY, BRYNA, CHAMBERS

23 101. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set  
24 forth herein.

25 102. Plaintiffs are individuals with disabilities.

26 103. At all times relevant to this complaint, Defendant GHS was an educational institution  
27 providing education to students from kindergarten through twelfth grade and receiving financial  
28

1 assistance from the State of California.

2 104. Defendants discriminated against Plaintiff on the basis of his disability by subjecting him  
3 to physical and emotional abuse in response to disability-related behavior.

4 105. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED  
5 SCHOOLS were the product of joint action between public entities and individual employees.

6 106. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA  
7 AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged,  
8 was a substantial factor in causing said harm to Plaintiff.  
9

10 107. As a proximate cause of the actions of Defendants herein, Plaintiff is entitled to damages  
11 in an amount according to proof and reasonable attorneys' fees and costs.  
12

13 **SIXTH CAUSE OF ACTION**

(Assault and Battery Pursuant to California Penal Code Section 206)

14 i)AS TO PLAINTIFF MARQUES Against MEYERS, KELLER, RAMSEY, ZOMURY,

15 ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOES 1-10

16 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. against defendants MEYERS, KELLER,  
17 RAMSEY

18 108. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
19 herein.

20 109. CORY, BRYNA, CHAMBERS, and DOE defendants, with the intent to cause cruel or  
21 extreme pain and suffering for the purpose of persuasion, or for a sadistic purpose, inflicted  
22 significant injury upon Plaintiff by repeatedly assaulted Plaintiff throwing him to the ground and  
23 causing bruises, contusions and lacerations.

24 110. As a result, Plaintiff suffered physical and psychological injuries.

25 111. Defendants acted with the intent to cause injury and that action and intention was  
26 despicable, done with a willful and knowing disregard of the rights of Plaintiff.  
27  
28

1  
2 112. Defendants acted knowingly and aware of the probable consequences of their conduct and  
3 deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel and unjust hardship.

4 113. Defendants' conduct, assaulting a disabled child is so vile, base, and contemptible that it  
5 would be looked down upon and despised by reasonable people.

6 114. Defendants' conduct in intentionally assaulting and restraining Plaintiff knowing of his  
7 disability condition is malicious and outrageous such that exemplary damages should be awarded.  
8

9 115. WHEREFORE, Plaintiff prays for judgment for damages according to proof.

SEVENTH CAUSE OF ACTION

ASSAULT AND BATTERY

10 Against Defendants MEYERS, KELLER, RAMSEY, ZOMURY, ANDERSON, ROBB,  
11 BRUCE, CORY, BRYNA, CHAMBERS

12 116. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
13 herein.  
14

15 117. MEYERS, KELLER, RAMSEY, ZOMURY, ANDERSON, ROBB, BRUCE, CORY,  
16 BRYNA, CHAMBERS, and DOE defendants, with the intent to cause pain, the named defendants  
17 significant injury upon Plaintiffs by repeatedly assaulting Plaintiffs.

18 118. As a result, Plaintiffs suffered physical and psychological injuries.

19 119. Defendants acted with the intent to cause injury and that action and intention was despicable,  
20 done with a willful and knowing disregard of the rights of Plaintiff.  
21

22 120. Defendants acted knowingly and aware of the probable consequences of their conduct and  
23 deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel and unjust hardship.

24 121. Defendants' conduct, assaulting a disabled child is so vile, base, and contemptible that it  
25 would be looked down upon and despised by reasonable people.

26 122. Defendants' conduct in intentionally assaulting and restraining Plaintiff knowing of his  
27 disability condition is malicious and outrageous such that exemplary damages should be awarded.  
28

1 123. WHEREFORE, Plaintiff prays for judgment for damages according to proof.

2 EIGHTH CAUSE OF ACTION  
3 ASSAULT AND BATTERY

4 Against Defendants MEYERS, KELLER, RAMSEY, ZOMURY, ANDERSON, ROBB,  
5 BRUCE, CORY, BRYNA, CHAMBERS

6 124. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
7 herein

8 125. In doing the things herein alleged, said defendants intended to cause, and did cause Plaintiffs  
9 MARQUEZ, Thomas and Jordan V.M. to suffer harmful or offensive contact.

10 126. As a result of said conduct of said defendants, Plaintiffs MARQUEZ, Thomas and Jordan  
11 V.M., reasonably believed that they were about to be touched in a harmful or offensive manner, and  
12 in a manner that offended a reasonable sense of personal dignity.

13 127. In doing the things herein alleged, said defendants threatened to touch MARQUEZ, Thomas  
14 and Jordan V.M. in a harmful or in an offensive manner.

15 128. At all times herein mentioned, it reasonably appeared to MARQUEZ, Thomas and Jordan  
16 V.M. that said defendants were about to carry out the threat.

17 129. At all times herein mentioned, MARQUEZ, Thomas and Jordan V.M. did not consent to the  
18 conduct of said defendants.

19 130. MARQUEZ, Thomas and Jordan V.M. suffered harm, as herein alleged.

20 131. The afore-mentioned conduct of said defendants was a substantial factor in causing  
21 MARQUEZ, Thomas and Jordan V.M. harm.

22 132. The conduct of said defendants, caused MARQUEZ, Thomas and Jordan V.M. to be  
23 apprehensive that said defendants would subject MARQUEZ, Thomas and Jordan V.M. to further  
24 intentional invasions of their right to be free from harmful and offensive contact, and demonstrated  
25 that at all times material herein, said defendants had a present ability to subject MARQUEZ,  
26  
27  
28

1 Thomas and Jordan V.M. to an intentional offensive and harmful touching.

2 133. Said defendants' unlawful conduct, as herein alleged, was a substantial factor in causing  
3 MARQUEZ, Thomas and Jordan V.M. to suffer physical and emotional injury, and future physical  
4 and emotional injury, all in an amount within the jurisdiction of the court according to proof at trial.  
5

6 134. At all relevant times, said defendants acted with conscious disregard of MARQUEZ, Thomas  
7 and Jordan V.M. rights, safety, physical well-being and feelings. Said defendants also acted with  
8 the knowledge of, or with reckless disregard for, the fact that their conduct was certain to cause  
9 injury and/or humiliation to MARQUEZ, Thomas and Jordan V.M. Said defendants intended to  
10 cause fear, physical injury and/or pain and suffering to MARQUEZ, Thomas and Jordan V.M. . By  
11 virtue of the foregoing, the estate of MARQUEZ, Thomas and Jordan V.M. are entitled to recover  
12 punitive and exemplary damages from individual and non-public entity defendants according to  
13 proof at trial. Estate of MARQUEZ, Thomas and Jordan V.M. make no claim for punitive damages  
14 against the named defendants.  
15

16  
17 **NINTH CAUSE OF ACTION**  
18 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
(ASSERTED BY Thomas and Jordan V.M. against all defendants.)

19 135. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
20 herein

21 136. In doing the things herein alleged, the conduct of said defendants was outrageous in that it was  
22 so extreme as to exceed all bounds of that usually tolerated in a civilized community.

23 137. Said defendants inflicted actual injury and/or acted with reckless disregard of the  
24 probability that Plaintiffs Thomas and Jordan V.M. would suffer emotional distress, knowing that  
25 the child who was restrained, including Thomas and Jordan V.M., were present when the conduct  
26 occurred.  
27  
28

1 138. The conduct of said defendants, as herein alleged, was a substantial factor in causing Thomas  
2 and Jordan V.M., to suffer severe emotional distress, severe mental anguish, humiliation, pain, and  
3 physical distress.

4 139. Said defendants knew or should have known that Thomas and Jordan V.M. did not need to  
5 be, for their safety or the safety of others, and did not want to be, physically forced into prolonged  
6 prone restraints, standing, seated, settled and/or small child restraints.

7 140. Said defendants' knowing disregard for the safety of MARQUEZ, Thomas and Jordan V.M.  
8 and said defendants' deliberate failure to monitor and control their behavior towards exceptional  
9 needs students, such as Thomas and Jordan V.M. caused Thomas and Jordan V.M. to be repeatedly  
10 battered and assaulted by teachers and aides at GHS.

11 141. Said defendants' conduct was extreme and outrageous.

12 142. Said defendants acted willfully and wantonly, and with reckless disregard for plaintiffs' rights  
13 and feelings, and with deliberate indifference to the certainty that Thomas and Jordan V.M. would  
14 suffer emotional distress.

15 143. The outrageous conduct of said defendants described herein was willful and malicious and  
16 was performed with conscious disregard for the rights, safety, physical well-being and feelings of  
17 the Thomas and Jordan V.M. As a result, Thomas and Jordan V.M. are entitled to punitive or  
18 exemplary damages from individual and non-public entity defendants in a sum according to proof.

19  
20  
21  
22 **TENTH CAUSE OF ACTION**  
23 **FALSE IMPRISONMENT**

24 **ASSERTED by Thomas and Jordan V.M. against all defendants**

25 144. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
26 herein

27 145. Said defendants intentionally and unlawfully exercised force, threat, implied threat of force,  
28

1 or duress, to restraint and confine Thomas and Jordan V.M. , and deprive them of their freedom of  
2 movement, when said defendants committed the acts described herein.

3 146. The unlawful restraint of Thomas and Jordan V.M. as hereinabove alleged, lasted for an  
4 appreciable amount of time.

5 147. Thomas and Jordan V.M. did not knowingly or voluntarily consent to said restraints.

6 148. As a proximate cause of the restraints, Thomas and Jordan V.M. suffered actual physical and  
7 emotional harm, as herein alleged.

8 149. That the conduct of said defendants, as herein alleged, was a substantial factor in causing harm  
9 to Thomas and Jordan V.M.

10 150. The outrageous conduct of the said defendants was willful and wanton, and was performed  
11 with conscious disregard for the rights, safety, physical well-being and feelings of Thomas and  
12 Jordan V.M. As a result, Thomas and Jordan V.M. are entitled to punitive or exemplary damages  
13 from individual and non-public entity defendants in a sum according to proof at time of trial.

14 **ELEVENTH CAUSE OF ACTION**

15 **NEGLIGENCE**

16 (ASSERTED BY Thomas and Jordan V.M. against all defendants.)

17 151. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
18 herein.

19 152. Said defendants breached their duty towards Thomas and Jordan V.M. by:

- 20
- 21
- 22
- 23 a. Failure to develop and maintain effective procedures governing emergency
- 24 b. Failure to obtain proper training for use of behavioral emergency
- 25 c. Failure to provide oversight on the use of restraints
- 26 d. Failure to develop protocols for use of restraints
- 27 f. Failure to prohibit restraints on physically disabled children
- 28 g. Failure to prohibit prolonged restraints (anything over 15 minutes)
- h. Failure to require that Thomas and Jordan V.M. be released from a restraint

- 1 at the earliest possible moment.
- 2 i. Failure to prohibit the use of any restraint when contraindicated by Thomas
- 3 and Jordan V.M. medical or psychological conditions, which were known
- 4 to increase the risk of physical injury.
- 5 j. Failure to prohibit restraints that constrict the child's ability to breathe.
- 6 k. Failure to prohibit the use of multiple staff members in a restraint, which
- 7 exponentially increases the risk of injury.
- 8 l. Failure to provide for the comfort of Thomas and Jordan V.M. while in
- 9 prone restraint, including, but not limited to: offering Thomas and Jordan
- 10 V.M. fluids, bathroom use, exercise, range of motion and periodic release
- 11 of limbs.
- 12 m. Failure to require monitoring by staff of the vital signs of the child regularly
- 13 throughout the restraint.
- 14 n. Failure to require continuous, close supervision of a restraint by the HWC
- 15 trainer or another staff member who is not involved in the restraint.
- 16 o. Failure to require immediate and accurate reporting on each restraint
- 17 p. Failure to conduct a prompt and thorough review of any restraint imposed
- 18 as a means to ensure compliance with laws and policies; to ensure
- 19 continuing safety of students; and to prevent other incidents of restraint.
- 20 q. Failure to provide for:
- 21 -primary preventative measures rather than restraint;
- 22 -interventions that are less intrusive than restraints;
- 23 -effective ways to de-escalate situations to avoid restraints; and
- 24 -crisis intervention techniques that utilize alternatives to restraint.
- 25 r. Failure to provide staff with resources and tools to properly respond to the
- 26 needs of those whom they serve and to be able to identify and address the
- 27 triggers that may cause emotionally disturbed children to react in ineffectual
- 28 ways to the environment.
- s. Failure to teach students adaptive behaviors, especially involving autistic
- children who do not have effective ways of communicating and interacting
- with others.
- t. Allowing use of physical restraints on children which:
- create an aversive environment counterproductive to facilitating learning;
- cause significant physical harm, serious, foreseeable long term
- psychological impairment.
- u. Failure to provide oversight on the use of restraints to determine
- whether the intervention was necessary
- whether each restraint was implemented in a manner consistent with staff
- training, as well as school and District (SELPA) policy.
- v.
- w. Failed to document injuries caused by restraint and
- x. Failed to get medical attention for a child who was injured while in restraint.

153. As a foreseeable result of the breach of said mandatory duties by said defendants, said school staff at GHS and POINT QUEST imposed numerous and prolonged prone restraints on Thomas and

1 Jordan V.M. as hereinabove alleged, resulting in injuries to Thomas and Jordan V.M.

2 154. Breach of said mandatory duties by said defendants was a substantial factor in causing injuries  
3 Thomas and Jordan V.M.

4 155. At all times herein mentioned said defendants breached the general duties of due care of  
5 educational professionals toward Thomas and Jordan V.M. who were disabled students under their  
6 guidance and care.

7 156. At all times herein mentioned, said defendants willfully, knowingly, intentionally,  
8 maliciously, and routinely used or encouraged the use of prone and other restraints on special  
9 needs/disabled children, including Thomas and Jordan V.M. as a form of corporal punishment in  
10 violation of California law.

11 157. At all times herein mentioned, said defendants willfully, knowingly, intentionally,  
12 maliciously, and routinely used or encouraged the use of prone and other restraints, known by said  
13 defendants to be dangerous, on disabled children, including on Thomas and Jordan V.M. with  
14 reckless disregard for the safety of said children.

15 158. At all times herein mentioned, said defendants, in doing each of the afore-mentioned acts,  
16 willfully, knowingly, intentionally, maliciously, and routinely used, or encouraged the use of, prone  
17 and other restraints, to injure special needs/disabled children and to create a reign of terror within  
18 the educational environment, in place and instead of providing educational services for special  
19 needs/disabled children, for which they were hired.

20 159. As a direct and foreseeable result of the negligence of said defendants MAX suffered physical  
21 injuries and death and, Thomas and Jordan V.M. suffered physical and emotional injuries.

22 160. The negligence of said defendants was a substantial factor in causing injury Thomas and  
23 Jordan V.M. to suffer physical and emotional injuries.

1  
2 161. By virtue of the willful and wanton, knowing, intentional, malicious acts of said defendants,  
3 and acts by said defendants that were done and acts done in reckless disregard for the safety and  
4 lives of Thomas and Jordan V.M., Thomas and Jordan V.M. are entitled to punitive damages  
5 against individual non-public entity defendants according to an award at the time of trial.

6  
7 **TWELFTH CAUSE OF ACTION**  
8 **NEGLIGENT SUPERVISION**  
9 **ASSERTED BY Thomas and Jordan V.M.**

10 162. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
11 herein.

12 163. Said defendants had a legal duty to exercise reasonable care in supervising special needs  
13 students in its respective charge pursuant to California Education Code section 44807 and may be  
14 held liable for injuries proximately caused by the failure to exercise such care.

15 164. Said defendants failed to exercise reasonable care in supervising Thomas and Jordan V.M.  
16 when they suffered the abuse as described herein.

17 165. Said defendants breached their duties to Thomas and Jordan V.M. when they failed to  
18 supervise Thomas and Jordan V.M., its administrators and staff during the abuse, and failed to  
19 ensure that GHS and POINT QUEST administrators and staff were adequately trained and provided  
20 proper supervision.

21  
22 166. As a direct and proximate result of the actions of said defendants as alleged herein, Thomas  
23 and Jordan V.M. suffered injury, and are entitled to damages according to proof.

24 **SEVENTEENTH CAUSE OF ACTION**  
25 **NEGLIGENCE PER SE**  
26 **(ASSERTED BY Thomas and Jordan V.M. and against all Defendants)**

27 167. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
28 herein

1 168. In doing the things herein alleged, said defendants violated the mandatory duties toward  
2 Thomas and Jordan V.M. as prescribed by state and federal law as referenced in each of the statutes  
3 as set forth hereinabove.

4 169. Said violations of criminal and civil law were a substantial factor in bringing about the harm  
5 alleged to Thomas and Jordan V.M. as set forth hereinabove.

6 170. As a direct and proximate result of the actions of said defendants as alleged herein, Thomas  
7 and Jordan V.M. suffered injury, and are entitled to damages according to proof.  
8

9  
10 **THIRTEENTH CAUSE OF ACTION**  
11 **TORTIOUS BREACH OF THE COVENANT**  
12 **OF GOOD FAITH AND FAIR DEALING**  
13 **(ASSERTED BY THE PLAINTIFFS MARQUES, Gloria, Thomas and Jordan V.M.**  
14 **AGAINST DEFENDANTS GHS, MEYERS, KELLER, POINT QUEST and DOE**  
15 **DEFENDANTS)**

16 171. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
17 herein.

18 172. Upon the respective enrollment of Marques, Thomas and Jordan V.M. entered into a written  
19 contract with GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants for the education  
20 of their children.

21 173. At all times herein mentioned, Marques, Thomas and Jordan V.M. were intended third party  
22 beneficiaries to the afore-mentioned contracts entered into between their parents and defendants  
23 GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants.

24 174. As a part of said contract, GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants  
25 provided each of said parents, with a copy of GHS' and POINT QUEST's parent/teacher handbook  
26 in which GHS and POINT QUEST indicated that they had a system of positive behavior  
27 intervention and support. The GHS handbook also indicated that defendant GHS would  
28 "customize" the system to support student outcomes and "interact with students in a way that

1 promotes social proficiency.” The GHS handbook states that “social competence is a skill that  
2 requires direct teaching.” The handbook assured parents that adult behavior when correcting a  
3 child would be “calm”, “brief”, and “respectful.”

4  
5 175. As part of the contract between said parties and defendants GHS, MEYERS, KELLER,  
6 POINT QUEST and DOE defendants promised to plaintiffs, and each of them, not to discriminate  
7 in any activity against any student based on physical or mental disability and further promised to  
8 prohibit intimidation or harassment by any employee of defendant GHS, MEYERS, KELLER,  
9 POINT QUEST and DOE defendants against any student based on physical or mental disability.

10  
11 176. As part of said contract, defendants GHS, MEYERS, KELLER, POINT QUEST and DOE  
12 defendants promised to plaintiffs, and each of them, to use Positive Behavior Interventions and  
13 Supports to correct inappropriate behavior and to interact with students in a way which promotes  
14 social proficiency and academic success, using as examples “positive language and redirecting  
15 behavior using a lesson.”

16  
17 177. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST and DOE  
18 defendants promised to plaintiffs, and each of them, that adult behavior when correcting a child  
19 would be “calm, consistent, brief, immediate and respectful,” and that their behavior intervention  
20 approach involved a three step prompt “verbal, modeling, hand-over-hand.”

21  
22 178. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST and DOE  
23 defendants promised to plaintiffs, and each of them, that restraints would be imposed only if the  
24 child was a danger to himself or others so as to de-escalate and re-integrate into classroom  
25 activities; the restraints and their possible consequences for injury and death were not truthfully or  
26 accurately described to plaintiffs, and each of them, by defendants GHS, MEYERS, KELLER,  
27 POINT QUEST and DOE defendants; and the most dangerous type of restraint, a prone restraint,  
28

1 was described by defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants to  
2 each of MARQUES, Thomas and Jordan V.M's parents in innocuous language as a "neutral"  
3 restraint.

4  
5 179. Plaintiffs, and each of them, did all of the significant things that the contract required them  
6 to do.

7 180. At all times herein mentioned, all of the conditions required for defendant GHS, MEYERS,  
8 KELLER, POINT QUEST, and DOE defendants had occurred.

9 181. Defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants unfairly  
10 interfered with the rights of plaintiffs, and each of them, to receive the benefits of the contract by  
11 engaging in the conduct as herein alleged.

12  
13 182. Defendant GHS, MEYERS, KELLER, POINT QUEST's and DOE defendants' interference  
14 with the afore-mentioned benefits of the contract was done in bad faith in that defendants routinely  
15 imposed corporal punishment, in addition to dangerous prone and other restraints, on special  
16 needs/disabled children under their care.

17  
18 183. By virtue of the bad faith interference with the contract benefits by defendants GHS,  
19 MEYERS, KELLER, POINT QUEST, and DOE defendants with said plaintiffs' contractual rights,  
20 plaintiffs MARQUES, Thomas and Jordan V.M., suffered severe emotional distress.

21 184. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER, POINT  
22 QUEST, and DOE defendants with said plaintiffs' contractual rights are entitled to medical and  
23 therapeutic costs.

24  
25 185. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER, POINT  
26 QUEST, and DOE defendants with said plaintiffs' contractual rights, Gloria V.M. has suffered  
27 severe emotional and physical distress at having her respective children injured by being placed in  
28

1 prone and other restraints because of their autism and other disabilities.

2 186. By virtue of said bad faith interference with contractual benefits, all plaintiffs suffered  
3 physical and emotional injuries, and future general and special damages as herein alleged.

4 187. The bad faith interference by defendants GHS, MEYERS, KELLER, POINT QUEST, and  
5 DOE defendants was a substantial factor in causing each of the afore-mentioned injuries to  
6 plaintiffs, and each of them.

7  
8 188. In doing the things herein alleged, defendants GHS, MEYERS, KELLER, POINT QUEST,  
9 and DOE defendants acted recklessly and with conscious disregard for the rights of plaintiffs, and  
10 each of them, willfully and maliciously exceeding the bounds of all behavior in a civilized behavior,  
11 brutalizing special needs/disabled children who had been entrusted to their care by their parents so  
12 as to receive an education that would allow their children to grow into well adjusted, well-  
13 functioning adults. As a consequence, plaintiffs, and each of them, are entitled to punitive damages.

14  
15 **FOURTEENTH CAUSE OF ACTION**

16 **FRAUD**

17 Asserted by Gloria V.M.

18 189. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth  
19 herein.

20 190. On or about the date of enrolling their respective children in defendant GHS, defendants,  
21 GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, represented to Gloria V.M. that  
22 said defendants would not to discriminate in any activity against any student at GHS based on  
23 physical or mental disability under Title IX, Education Code section 106.8(a)(d) and 106.9.8(a); that  
24 they prohibited intimidation or harassment by any employee of defendants GHS and POINT  
25 QUEST against any student based on physical or mental disability; that said defendants and their  
26 employees would use Positive Behavior Interventions and Supports to correct inappropriate  
27  
28

1 behavior and to interact with students in a way which promotes social proficiency and academic  
2 success, including using "positive language and redirecting behavior using a lesson"; that behavior  
3 by GHS' staff when correcting a child would be "calm, consistent, brief, immediate and  
4 respectful,"; that GHS and POINT QUEST behavior intervention approaches involved a three step  
5 prompt "verbal, modeling, hand-over-hand"; and that restraints would be imposed only if the child  
6 was a danger to himself or others so as to de-escalate and re-integrate into classroom activities.  
7

8 191. On or about the dates of the respective enrollment of Thomas and Jordan V.M., at GHS and  
9 POINT QUEST, PLACER and ROCKLIN UNIFIED SCHOOLS and their employees represented  
10 to Gloria V.M that they were required to sign a form allowing defendants GHS, MEYERS,  
11 KELLER, POINT QUEST, and DOE defendants, to impose restraints on said plaintiffs' respective  
12 children, with the implied threat that if they did not sign the form their respective children would  
13 not be enrolled at GHS, which was the only school available to educate said children, and therefore,  
14 the parents would be in violation of California's mandatory education law.  
15

16 192. That the afore-mentioned representations of defendants, were false, and Gloria V.M. learned  
17 that they were false on or after November 29, 2018, upon the death of MAX, when they discovered  
18 that they did not have to allow or consent to the use of restraints against their disabled children.  
19

20 193. Said defendants knew that said representations were false when they made them, and/or said  
21 defendants made the representations recklessly and without regard for the truth of said  
22 representations.  
23

24 194.

25 195. Said defendants intended that GLORIA V.M. rely on said representations.

26 196. GLORIA V.M. reasonably relied on said representations, and enrolled their respective  
27 children at defendant GHS to receive an education.  
28

1  
2 197. GLORIA V.M. were harmed by said intentional representations, in that each of said plaintiffs  
3 suffered severe emotional distress upon seeing their respective child injured at the hands of GHS  
4 and its staff after being placed in prone and other types of restraints for known behaviors related to  
5 the child's special needs and disability, and which behaviors did not present a clear and present  
6 danger to himself or others; and further plaintiffs, Thomas and Jordan V.M. suffered severe  
7 emotional distress when MAX was injured and killed after he had a behavioral outburst as a result  
8 of being isolated from the rest of the class with no staff member near him to keep him calm.  
9

10 198. GLORIA V.M. reliance on said representations was a substantial factor in causing the severe  
11 emotional distress of said plaintiffs.

12 199.

13 200. At all relevant times, said defendants acted with conscious disregard of the rights and  
14 feelings of GLORIA V.M. , and acted with the knowledge of, or with reckless disregard for, the  
15 fact that their conduct was certain to cause severe emotional distress to said plaintiffs. By virtue  
16 of the foregoing, said plaintiffs are entitled to recover punitive and exemplary damages from  
17 non-public entity defendants according to proof at the time of trial.  
18  
19

## 20 DAMAGES

21 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

22 FIRST CAUSE OF ACTION SEVENTH CAUSE OF ACTION  
23 INTERFERENCE WITH THE EXERCISE OF CIVIL RIGHTS UNDER CALIFORNIA CIVIL  
24 CODE SECTIONS 51(b) and 51.7

- 25 1. General damages for in an amount to be determined according to proof at trial;  
26 2. Medical and future medical and related expenses in an amount to be determined by proof  
at trial;  
27 3. Past and future lost earnings in an amount to be determined by proof at trial;  
28 4. Impairment of earning capacity for in an amount to be determined by proof at trial;  
5. General damages for severe emotional and psychological distress

6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

SECOND CAUSE OF ACTION INTERFERENCE WITH PLAINTIFFS' EXERCISE OF  
CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

THIRD CAUSE OF ACTION VIOLATIONS OF CALIFORNIA EDUCATION CODE §§ 200,  
201, 220 and 260, et seq.

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

FOURTH CAUSE OF ACTION ASSAULT AND BATTERY CONSTITUTING TORTURE

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress

- 1 6. Pain and suffering;
- 2 7. Statutory damages;
- 3 8. Attorneys' fees;
- 4 8. Punitive and exemplary damages against all non-public entity Defendants
- 5 9. Costs of this action;
- 6 10. Such other and further relief as the Court deems just and proper.

7 ALL OTHER CAUSES OF ACTION AS PLED ABOVE.

8 Dated: August 28, 2020

9 /s/ Seth L. Goldstein  
10 Seth L. Goldstein, Lead Counsel for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO  
3321 Cameron Park Drive  
Cameron Park, California 95682  
(530) 621-5867 Fax (530) 672-2413

CASE NO. PC 20200429

EL DORADO CO. SUPERIOR CT.

Plaintiff,  
LOUIE ANDREAS MARQUES  
vs.

Defendant.  
GUIDING HANDS SCHOOL INC

FILED AUG 27 2020

BY

SHAW  
Deputy

NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE  
(Local Rule 7.12.05 and .09)

NOTICE IS HEREBY GIVEN that a CASE MANAGEMENT CONFERENCE in the above  
entitled case is set for 1:30 on 12/28/20, in Dept. 10.  
3321 Cameron Park Drive, Cameron Park, California.

A Case Management Statement must be filed and served not less than  
15 days before the Conference.

If a party is demanding a jury trial, pursuant to Civil Code of  
Procedure section 631(b), a non-refundable jury fee of \$150.00 must  
be deposited with the court on or before the initial Case Management  
Conference date in this action. Failure to timely deposit the funds  
will result in a waiver of a jury trial.

At the CASE MANAGEMENT CONFERENCE you will be assigned a Dispute Reso-  
lution Conference Date, a Mandatory Settlement Conference Date, and a  
Trial Date. In lieu of a Dispute Resolution Conference, the parties  
may elect mediation, binding arbitration, or judicial arbitration.

In addition, the court will make pre-trial orders.

The Court will require full compliance of El Dorado County Local  
Rules, in particular, the rules governing Trial Court Case Management  
(rule 7.12.00, et seq.). For additional information regarding the  
Trial Court Case Management Program visit our website at:  
[www.eldoradocourt.org](http://www.eldoradocourt.org)

You must be prepared to discuss all matters and dates which are the  
subjects of the Case Management Conference. Telephonic court appear-  
ances are provided through the Court. To sign up to appear by  
telephone please go to the court's website at  
<http://www.eldoradocourt.org/online services/vcourt.html> at  
least five (5) days prior to the scheduled conference.

CMC1

Rev 05/20/13

CMS

Exhibit F

CLERK'S CERTIFICATE OF SERVICE

I declare under penalty of perjury that I am over the age of 18 and not a party to the above action; that a copy of NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE was placed for mailing through either the United States Post Office or Inter-Departmental mail on the parties at the address shown herein.

Executed on 08/28/20, in Cameron Park, California.

Delivered to:

SETH L GOLDSTEIN  
2100 GARDEN RD  
SUITE H-8  
MONTEREY CA 93940

Tania Ugrin-Capobianco, Court Executive Officer

By: \_\_\_\_\_

*SHWC*  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

MINUTE ORDER

CASE NO: PC20200429  
DATE: 09/14/20

LOUIE ANDREAS MARQUES vs GUIDING HANDS SCHOOL  
TIME: 12:27 DEPT:

EX PARTE MINUTE ORDER

---

Honorable JUDGE DYLAN SULLIVAN presiding. Clerk: Sherry Howe. Court Reporter: None.

170. 6 CCP filed by Plaintiffs against JUDGE DYLAN SULLIVAN.

Pursuant to the standing order of the Presiding Judge, the above entitled matter is ordered referred to the South Lake Tahoe Session of this Court, for reassignment by the Presiding Judge.

Upon reassignment, this matter shall be set for CMC re status. Parties and counsel shall be notified of the assignment.

HCMCS hearing set on 12/28/20 at 1:30 in department 10 is ordered vacated.

The minute order was placed for collection/mailing in Cameron Park, California, either through United States Post Office, Inter-Departmental Mail, or Courthouse Attorney Box to those parties listed herein.

Executed on 09/14/20, in Cameron Park, California by S. Howe.

cc: Seth L. Goldstein, Esq., 2100 Garden Road, #H-8, Monterey, CA 93940

cc: Honorable Suzanne N. Kingsbury, via scan

Seth L. Goldstein, S.B.N. 176882  
2100 Garden Road, Suite H-8  
Monterey, California, 93940  
Telephone (831) 372 9511  
Fax (831) 372 9611

EL DORADO CO. SUPERIOR CT.

FILED SEP 11 2020

BY Shane  
Deputy

Lead-Counsel for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO

In the Matter of:

Louie Andreas MARQUES, Gloria V.M.,  
Thomas V.M., and Jordan V.M.,

Plaintiffs

vs

GUIDING HANDS SCHOOL, Inc.(hereinafter  
"GHS"),Jennifer GALAS, Staranne  
MEYERS, Cindy KELLER, David  
CHAMBERS, STATE OF CALIFORNIA,  
DEPARTMENT OF EDUCATION, PLACER  
COUNTY SELPA, Cara BRUCE, Ashley ROB,  
Dolores ZUMBURY, Vince ANDERSON,  
POINT QUEST, Inc., ROCKLIN UNIFIED  
SCHOOL DISTRICT, Noel COLLIER,  
Patricia DOE, David DOE, Amanda DOE, and  
Noelle DOE,

Defendants.

Case No.: PC20200429

PEREMPTORY CHALLENGE  
OF JUDGE DYLAN SULLIVAN  
PURSUANT TO CCP SECTION  
170.6

Judge:  
Dept.:  
Date:  
Time:

FILED BY FAX

Declaration of Plaintiffs':

1. I am counsel for the Plaintiffs' in the above-entitled matter.
2. I received the Notice of Case Assignment on September 10, 2020.
3. The Honorable Judge Dylan Sullivan to whom this matter is pending in Department 10 is prejudiced against counsel.

Exhibit F

1 3. Declarant believes that the Plaintiff's cannot have a fair and impartial trial or hearing  
2 before this Judge.  
3

4  
5 I declare under penalty of perjury under the laws of the State of California that the  
6 foregoing is true and correct.

7  
8 Dated: September 11, 2020

  
Seth L. Goldstein  
Attorney for Plaintiffs'

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

MINUTE ORDER

CASE NO: PC20200429  
DATE: 09/15/20

LOUIE ANDREAS MARQUES vs GUIDING HANDS SCHOOL  
TIME: 10:22 DEPT:

EX PARTE MINUTE ORDER

---

Honorable JUDGE SUZANNE N. KINGSBURY presiding. Clerk: Sherry Howe.  
Court Reporter: None.

The Honorable Dylan Sullivan having been recused in the above-matter,  
the matter was referred to the Presiding Judge for reassignment.

This matter is hereby Ordered assigned to the Honorable Michael J.  
McLaughlin for all purposes.

CASE MANAGEMENT CONFERENCE RE: STATUS set for 10/20/20 at 3:30 in  
department 12.

The minute order was placed for collection/mailing in Cameron Park,  
California, either through United States Post Office,  
Inter-Departmental Mail, or Courthouse Attorney Box to those parties  
listed herein.

Executed on 09/15/20, in Cameron Park, California by S. Howe.

cc: Seth L. Goldstein, Esq., 2100 Garden Road, #H-8, Monterey, CA  
93940

cc: Honorable Suzanne N. Kingsbury, via scan

CIV-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Seth Goldstein (SBN: 176882) 2100 Garden Rd., Suite H-8 Monterey, CA 93940  TELEPHONE NO.: (831) 372-9511 FAX NO. (Optional): (831) 372-9611 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Lead Counsel for Plaintiffs		FOR COURT USE ONLY  <b>FILED</b>  OCT 01 2020  EL DORADO CO. SUPERIOR COURT BY <i>Nancy J. Warden</i> (DEPUTY CLERK)
SUPERIOR COURT OF CALIFORNIA, COUNTY OF El Dorado STREET ADDRESS: 3321 Cameron Park Drive MAILING ADDRESS: SAME AS STREET CITY AND ZIP CODE: Cameron Park, CA 95682 BRANCH NAME: CIVIL		
PLAINTIFF/PETITIONER: Marques, et al. DEFENDANT/RESPONDENT: Guiding Hands School, Inc., et al.		
REQUEST FOR DISMISSAL		
A conformed copy will not be returned by the clerk unless a method of return is provided with the document. This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)		CASE NUMBER: PC 2020-0429 Judge Dylan Sullivan

1. TO THE CLERK: Please dismiss this action as follows:
- a. (1) ☒ With prejudice (2) ☐ Without prejudice
- b. (1) ☒ Complaint (2) ☐ Petition
- (3) ☐ Cross-complaint filed by (name): on (date):
- (4) ☐ Cross-complaint filed by (name): on (date):
- (5) ☐ Entire action of all parties and all causes of action
- (6) ☒ Other (specify):\* As to Defendant, Jennifer Galas only. Each side to bear their own fees and costs.
2. (Complete in all cases except family law cases.)  
 The court ☐ did ☒ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed.)

Date: 10/1/2020

 Seth Goldstein (SBN: 176882)  
 (TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

\*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

 Attorney or party without attorney for: Lead Counsel for Plaintiffs  
☒ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

Date:

 (TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

\*\* If a cross-complaint—or Response (Family Law) seeking affirmative relief—is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

 Attorney or party without attorney for:  
☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Cross-Complainant

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date):
5. ☒ Dismissal entered on (date): 10/01/2020 as to only (name): Jennifer Galas
6. ☐ Dismissal not entered as requested for the following reasons (specify):

7. a. ☐ Attorney or party without attorney notified on (date):
- b. ☐ Attorney or party without attorney not notified. Filing party failed to provide  
☐ a copy to be conformed ☐ means to return conformed copy

Date: 10/01/2020

Clerk, by *Nancy J. Warden* Deputy

Tania G. Ugry/Capobianco

Page 1 of 2

 RECEIVED  
 OCT 01 2020

 Legal  
 Solutions  
 La Plus

BY: .....

Exhibit F

BY FAX

1 *Marques vs Guiding Hands School, Inc., et al.*  
2 El Dorado Superior Court Case No.: PC2020-0429

3 **PROOF OF SERVICE**

4 I am a citizen of the United States, employed in the County of Sacramento, State of  
5 California. My business address is 601 University Avenue, Suite 225, Sacramento, CA 95825. I  
6 am over the age of 18 and not a party to the above-entitled action.

7 I am readily familiar with Spinelli, Donald & Nott's practice for collection and processing of  
8 correspondence for mailing with the United States Postal Service. Pursuant to said practice, each  
9 document is placed in an envelope, the envelope is sealed, the appropriate postage is placed thereon  
10 and the sealed envelope is placed in the office mail receptacle. Each day's mail is collected and  
11 deposited in a U.S. mailbox at or before the close of each day's business. (CCP Section 1013a(3) or  
12 Fed.R.Civ.P.5(a) and 4.1.)

13 On 10/1/20, I served the enclosed: **REQUEST FOR DISMISSAL**. The originals of which were  
14 produced on recycled paper, to be served via:

15 **xx MAIL--**

16 Placed in the United States Mail at Sacramento, California in an envelope with postage  
17 thereon fully prepaid addressed as follows:

18 **SERVICE LIST**

19 **Lead Counsel for Plaintiffs**

20 Seth L. Goldstein  
21 2100 Garden Rd., Suite H-8  
22 Monterey, CA 93940  
23 Tel: 831.372.9511  
24 Fax: 831.372.9611  
25 Email: [slglawoffice@gmail.com](mailto:slglawoffice@gmail.com)

26 I declare under penalty of perjury under the laws of the State of California that the foregoing  
27 is true and correct. Executed on 10/1/20, at Sacramento, California.

28   
Jessica Patton

BY FAX

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

MINUTE ORDER

CASE NO: PC20200429      LOUIE ANDREAS MARQUES vs GUIDING HANDS SCHOOL  
DATE: 10/20/20      TIME: 3:30      DEPT: 12

CASE MANAGEMENT CONFERENCE RE: STATUS

---

Honorable Judge MICHAEL J. MCLAUGHLIN presiding. Clerk: Wendy Warden.  
Court Reporter: None.

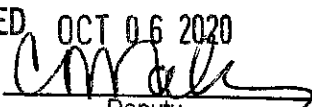
LOUIE ANDREAS MARQUES present by counsel Seth Goldstein via vCourt.

A Case Management/ADR Assessment Conference was held this date and,  
good cause therefore appearing, the following determinations were  
made:

Hearing continued to 12/15/20 at 3:30 in department 12

Notice to be given by Plaintiff.

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <b>Seth L. Goldstein</b> <b>Law Offices of Seth L. Goldstein</b> <b>2100 Garden Rd., Ste. H-8</b> <b>Monterey, CA 93940</b> TELEPHONE NO.: <b>831-372-9511</b> FAX NO. (Optional): <b>831-372-9611</b> E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>Plaintiffs</b>	FOR COURT USE ONLY   <b>EL DORADO CO. SUPERIOR CT.</b>  FILED <b>OCT 06 2020</b> BY  Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF El Dorado STREET ADDRESS: <b>3321 Cameron Park Drive</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>Cameron Park, CA 95682</b> BRANCH NAME: <b>Civil</b>	CASE NUMBER: <b>PC20200429</b>
PLAINTIFF/PETITIONER: <b>Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M.</b> DEFENDANT/RESPONDENT: <b>Guiding Hands School, Inc. (hereinafter "GHS", Staranne MEYERS, et al</b>	
<b>CASE MANAGEMENT STATEMENT</b> (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded is \$25,000 or less)	
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: <b>October 20, 2020</b> Time: <b>3:30 pm</b> Dept.: Div.: Room: Address of court (if different from the address above):  <input checked="" type="checkbox"/> Notice of Intent to Appear by Telephone, by (name): <b>Seth L. Goldstein</b>	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. Party or parties (answer one):
  - a. ☒ This statement is submitted by party (name): **All Plaintiffs, Marques and Van Maren**
  - b. ☐ This statement is submitted jointly by parties (names):
  
2. Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)
  - a. The complaint was filed on (date): **August 27, 2020**
  - b. ☐ The cross-complaint, if any, was filed on (date):
  
3. Service (to be answered by plaintiffs and cross-complainants only)
  - a. ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - b. ☒ The following parties named in the complaint or cross-complaint
    - (1) ☒ have not been served (specify names and explain why not): **I will be dismissing the Van Maren Plaintiffs and re-filing in Federal Ct., amending the complaint accordingly.**
    - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
    - (3) ☐ have had a default entered against them (specify names):
  - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
  
4. Description of case
  - a. Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):  
**Violations of civil rights in educational setting.**

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M. DEFENDANT/RESPONDENT: Guiding Hands School, Inc.(hereinafter "GHS", Staranne MEYERS, et al	CASE NUMBER: PC20200429
--	----------------------------

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

Plaintiff Marques was a disabled student at defendant, GHS. He was repeatedly assaulted as discipline differently than those without such a disability.

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☒ a jury trial ☐ a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a. ☒ The trial has been set for (date): Not as of this time  
b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):  
c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. ☒ days (specify number): 20  
b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney: Seth L. Goldstein  
b. Firm: Law Office of Seth L. Goldstein  
c. Address: 2100 Garden Rd., Ste. H-8, Monterey, CA 93940  
d. Telephone number: 831-372-9511 f. Fax number: 831-372-9611  
e. E-mail address: slg.lawoffice@gmail.com g. Party represented: Plaintiffs  
☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative dispute resolution (ADR)

- a. ADR information package. Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. Referral to judicial arbitration or civil action mediation (if available).

- (1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.  
(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.  
(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M.  
 DEFENDANT/RESPONDENT: Guiding Hands School, Inc.(hereinafter "GHS", Staranne MEYERS, et al

CASE NUMBER:

PC20200429

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form are willing to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M.	CASE NUMBER:
DEFENDANT/RESPONDENT: Guiding Hands School, Inc.(hereinafter "GHS", Staranne MEYERS, et al	PC20200429

## 11. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (name):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (explain):

## 12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (specify):

Status:

## 13. Related cases, consolidation, and coordination

- a. ☒ There are companion, underlying, or related cases.
- (1) Name of case: Langley, Benson, et al. vs. Guiding Hands School, et al.
- (2) Name of court: Eastern District Court of California
- (3) Case number: 2:20-cv-00635-TLN-KJN
- (4) Status: Pending rulings on Motion to Dismiss
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (name party):

## 14. Bifurcation

☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

## 15. Other motions

☐ The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):

## 16. Discovery

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (describe all anticipated discovery):

Party	Description	Date
Marques	Request to Produce; Request for Admissions, Form Interrogs, Special Interrogs	Unknown because of circumstances below

- c. ☒ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (specify): Main issue relating to discovery are that the 40 bankers boxes of evidence and related electronic devices containing records held by the district attorney under a protective order pending resolution of the criminal case. The criminal case is not yet set for trial.

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M. DEFENDANT/RESPONDENT: Guiding Hands School, Inc.(hereinafter "GHS", Staranne MEYERS, et al	CASE NUMBER: PC20200429
--	----------------------------

## 17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

## 18. Other issues

- ☒ The party or parties request that the following additional matters be considered or determined at the case management conference (specify): The Complaint was filed to preserve the statute of limitations intending to amend as soon as certain facts were obtained. We have had COVID quarantine interruptions that have delayed our ability to follow through on the amendment. I anticipate that the complaint will be amended by November 1st. The requests for appointments of GAL with minor plaintiffs will be withdrawn as that portion of the complaint will be dismissed.

## 19. Meet and confer

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain): Not as of this time because complaint has not yet been served.
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): \_\_\_\_\_

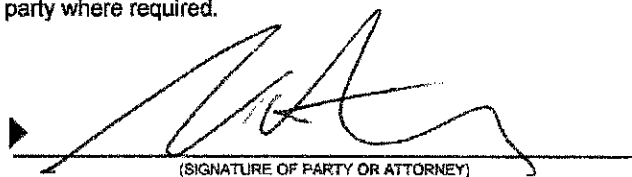
I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: October 5, 2020

Seth L. Goldstein

(TYPE OR PRINT NAME)

(TYPE OR PRINT NAME)

▶  (SIGNATURE OF PARTY OR ATTORNEY)

▶ \_\_\_\_\_ (SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

MINUTE ORDER

CASE NO: PC20200429  
DATE: 12/15/20

LOUIE ANDREAS MARQUES vs GUIDING HANDS SCHOOL  
TIME: 4:16 DEPT:

EX PARTE MINUTE ORDER

---

Honorable Judge MICHAEL J. MCLAUGHLIN presiding. Clerk: Wendy Warden.  
Court Reporter: None.

On the court's own motion, due to the unavailability of a judicial officer, the Case Managment Conference on 12/15/2020 at 3:30 PM in department 12 is hereby continued to 01/12/2021 at 3:30 PM in department 12.

Instructions are on our website to cancel the V Court telephonic appearance and request a refund. You will need to sign up on our website for the new date.

cc: Seth L. Goldstein, Esquire; 2100 Garden Road, Suite H-8,  
Monterey, CA 93940

**INSTRUCTIONS:** All applicable boxes must be checked, and the specified information must be provided.

- Form Adopted for Mandatory Use  
Judicial Council of California  
CM-110 (Rev. July 1, 2011)

Legal  
Solutions  
& Plus

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M.	CASE NUMBER:
DEFENDANT/RESPONDENT: Guiding Hands School, Inc. (hereinafter "GHS", Staranne MEYERS, et al)	PC20200429

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

Plaintiffs Marques and V.M were disabled students at defendant, GHS. They were repeatedly assaulted as discipline differently than those without such a disability.

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☒ a jury trial ☐ a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a. ☒ The trial has been set for (date): Not as of this time  
 b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. ☒ days (specify number): 20  
 b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney: Seth L. Goldstein  
 b. Firm: Law Office of Seth L. Goldstein  
 c. Address: 2100 Garden Rd., Ste. H-8, Monterey, CA 93940  
 d. Telephone number: 831-372-9511  
 e. E-mail address: slglawoffice@gmail.com  
 f. Fax number: 831-372-9611  
 g. Party represented: Plaintiffs  
☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative dispute resolution (ADR)

- a. ADR information package. Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. Referral to judicial arbitration or civil action mediation (if available).

- (1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.  
 (2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.  
 (3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M.  
 DEFENDANT/RESPONDENT: Guiding Hands School, Inc.(hereinafter "GHS", Staranne MEYERS, et al

CASE NUMBER:  
 PC20200429

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form are willing to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M.	CASE NUMBER:
DEFENDANT/RESPONDENT: Guiding Hands School, Inc.(hereinafter "GHS", Staranne MEYERS, et al	PC20200429

**11. Insurance**

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

**13. Related cases, consolidation, and coordination**

- a. ☒ There are companion, underlying, or related cases.
- (1) Name of case: Langley, Benson, et al. vs. Guiding Hands School, et al.
- (2) Name of court: Eastern District Court of California
- (3) Case number: 2:20-cv-00635-TLN-KJN
- (4) Status: Pending rulings on Motion to Dismiss
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

**14. Bifurcation**

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

- ☐ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

**16. Discovery**

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Marques/V.M.- All Plaintiffs	Request to Produce; Request for Admissions, Form Interrogs, Special Interrogs	Unknown because of circumstances below

- c. ☒ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*): Main issue relating to discovery are that the 40 bankers boxes of evidence and related electronic devices containing records held by the district attorney under a protective order pending resolution of the criminal case. The criminal case is set for trial in March 2021 and Preliminary Examination in January 2021.

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M. DEFENDANT/RESPONDENT: Guiding Hands School, Inc. (hereinafter "GHS", Staranne MEYERS, et al	CASE NUMBER: PC20200429
---	----------------------------

## 17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

## 18. Other issues

- ☒ The party or parties request that the following additional matters be considered or determined at the case management conference (specify): The Complaint was filed to preserve the statute of limitations intending to amend as soon as certain facts were obtained. We have had continued COVID quarantine interruptions that have delayed our ability to follow through on the amendment. I anticipated that the complaint would be amended by November 1st. We have been unable to do so. I must ask for another 30 days at minimum.

## 19. Meet and confer

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain): Not as of this time because complaint has not yet been served.
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: December 8, 2020

Seth L. Goldstein

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

MINUTE ORDER

CASE NO: PC20200429                      LOUIE ANDREAS MARQUES vs GUIDING HANDS SCHOOL  
DATE: 01/12/21                              TIME: 3:30                              DEPT: 12

CASE MANAGEMENT CONFERENCE RE: STATUS

---

Honorable Judge MICHAEL J. MCLAUGHLIN presiding. Clerk: Wendy Warden.  
Court Reporter: None.

LOUIE ANDREAS MARQUES, GLORIA V M, THOMAS V M, JORDAN V M present by  
counsel Seth Goldstein via vCourt.

A Case Management/ADR Assessment Conference was held this date and,  
good cause therefore appearing, the following determinations were  
made:

All Parties have not been served.

Hearing continued to 02/23/21 at 3:30 in department 12

Notice to be given by Plaintiff.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

MINUTE ORDER

CASE NO: PC20200429  
DATE: 02/23/21

LOUIE ANDREAS MARQUES vs GUIDING HANDS SCHOOL  
TIME: 3:30 DEPT: 12

CASE MANAGEMENT CONFERENCE RE: STATUS

---

Honorable Judge MICHAEL J. MCLAUGHLIN presiding. Clerk: Wendy Warden.  
Court Reporter: None.

LOUIE ANDREAS MARQUES, GLORIA V M, THOMAS V M, JORDAN V M present by  
counsel Seth Goldstein via vCourt.

A Case Management/ADR Assessment Conference was held this date and,  
good cause therefore appearing, the following determinations were  
made:

Hearing continued to 05/25/21 at 3:30 in department 4

Notice to be given by plaintiff.

Seth L. Goldstein, S.B.N. 176882  
2100 Garden Road, Suite H-8  
Monterey, California, 93940  
Telephone (831) 372 9511  
Fax (831) 372 9611

EL DORADO CO. SUPERIOR CT.

FILED FEB 23 2021

BY Deputy

Lead-Counsel for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO

In the Matter of:

Louie Andreas MARQUES, Gloria V.M.,  
Thomas V.M., and Jordan V.M.,

Plaintiffs

vs

GUIDING HANDS SCHOOL, Inc.(hereinafter  
"GHS"), Staranne MEYERS, "Star Williams";  
Cindy KELLER, David CHAMBERS, Susan  
Jane BATTLE; "Cory" DOE; Cory  
QUINCEY; Byrna QUINCEY; Noel  
COLLIER; STATE OF CALIFORNIA,  
DEPARTMENT OF EDUCATION  
(hereinafter CDE); PLACER COUNTY  
SELPA (hereinafter PLACER SELPA); Troy  
TICKLE; Kristi GREGERSON; Cara BRUCE,  
Ashley ROBB, Dolores ZUMBURY, Vince  
ANDERSON, POINT QUEST, Inc.; Nicole  
DOE; Jennifer DOE; ROCKLIN UNIFIED  
SCHOOL DISTRICT (hereinafter RUSD); ,  
Patricia DOE, David DOE, Amanda DOE, and  
Noelle DOE, Bruce CHAPMAN; and HANDLE  
WITH CARE BEHAVIOR MANAGEMENT  
SYSTEM, INC. (hereinafter HWC); and DOES  
1-100,

Defendants.

Case No.: PC20200429

FIRST AMENDED COMPLAINT  
FOR DAMAGES

JURY TRIAL DEMANDED

BY FAX

CMS  
Exhibit F

**PARTIES**

1  
2       1. **Plaintiff Louie MARQUES** (legal name Louie Andreas MARQUES, hereinafter  
3 "MARQUES"), who lives in Sacramento was, at all relevant times herein, a minor child  
4 diagnosed as then having Oppositional Defiant Disorder and ADHD. He was a person  
5 with a disability as defined by the Unruh Act, with a mental disability as defined in Sections  
6 12926 and 12926.1 of the Government Code.  
7

8       2. At the relevant times, MARQUES had an IEP that identified predictable behaviors  
9 as disrespecting authority, tantrums, disruption of others, yelling, swearing, and kicking.  
10

11       3. The BIP mandated that staff use verbal prompts, proximity changes, and modeling  
12 behaviors sought to be learned.

13       4. **Plaintiffs Thomas and Jordan V.M.** were children with disabilities as defined in  
14 20 USD 1401(3), and were persons who under the Unruh Act, have a mental disability as  
15 defined in Sections 12926 and 12926.1 of the Government Code.

16       5. Thomas V.M. had an IEP that identified kicking, biting, throwing objects, refusal to  
17 participate in activity or follow staff directives, yelling, screaming, grunting or crying with  
18 tears as predictable behaviors.

19       6. His less restrictive corrective measures are identified as monitoring for safety, one  
20 step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach"  
21 and reapplication of original direction and follow through with original instruction.  
22

23       7. ~~Jordan V.M. had an IEP that identified non-compliance, physical aggression~~  
24 (kicking, hitting, pushing, biting, and spitting on staff and peers), yelling/screaming,  
25 inappropriate gestures and other behavior described as eating crayons and spitting water  
26 as predictable behaviors.  
27  
28

1 8. His less restrictive corrective measures are identified as monitoring for safety, one  
2 step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach"  
3 and reapplication of original direction and follow through with original instruction.  
4

5 9. Plaintiff Gloria V.M. is the adoptive mother of Thomas and Jordan V.M. and is  
6 their Guardian Ad Litem.

7 **DEFENDANTS**

8 10. Defendants Guiding Hands School Inc., and Point Quest Inc. 4900 Windplay  
9 Dr., El Dorado Hills, California, located on the same premises having allegedly bought out  
10 GHS are non-public schools (hereinafter NPS) incorporated under the laws of the State  
11 of California as for-profit corporations and approved by the State of California as  
12 institutions providing for children with disabilities.  
13

14 11. Presently, and at all times relevant to this Complaint, GHS was and is a business  
15 establishment within the meaning of the Unruh Civil Rights Act. Defendant GHS was an  
16 independent contractor with Elk Grove Unified Schools, pursuant to a written contract to  
17 perform educational services for Plaintiffs MARQUES, Thomas and Jordan V.M.  
18

19 12. Presently, and at all times relevant to this Complaint, POINT QUEST is a business  
20 establishment within the meaning of the Unruh Civil Rights Act. Defendant POINT  
21 QUEST is an independent contractor with Rocklin Unified Schools and Placer County  
22 SELPA, pursuant to a written contract to perform educational services for Plaintiffs  
23 Thomas and Jordan V.M.

24 13. Presently, and at all times relevant to this Complaint, Defendant POINT QUEST  
25 is and a business establishment within the meaning of the Unruh Civil Rights Act.  
26 Defendant POINT QUEST is an independent contractor pursuant to a written contract to  
27  
28

1 perform educational services for Plaintiffs Thomas and Jordan V.M.

2 14. Presently, and at all times relevant to this **Complaint, Defendants Rocklin Unified**  
3 **Schools and Placer County SELPA** are business establishments within the meaning of  
4 the Unruh Civil Rights Act.

5  
6 15. **Defendant California Department of Education (CDE)**, a department of the State  
7 of California Presently, was and at all times relevant to this Complaint, responsible for  
8 inspecting and certifying Non-Public Schools such as GHS and POINT QUEST. It is a  
9 business establishment within the meaning of the Unruh Civil Rights Act.

10 16. **Defendants Bruce Chapman and Handle with Care Behavior Management**  
11 **System, Inc.** Defendant, HWC was a corporation organized under the laws of the State  
12 of New York, and doing business in California, marketing a system of restraint and training  
13 California teachers to restrain special needs children in prone and other types of  
14 restraints.

15  
16 17. At all times herein mentioned, defendant, Bruce Chapman (hereinafter  
17 "CHAPMAN"), was the agent and employee, owner, alter-ego, president and founder of  
18 HWC, who developed a patented restraint system marketed through HWC to schools in  
19 California for use on "behaviorally challenged" children in California schools, including  
20 GHS, which lead to the injuries to the student plaintiffs.

21  
22 18. At all times herein mentioned, defendant, HWC was a corporation organized under  
23 the laws of the State of New York, and doing business in California, marketing a system  
24 of restraint and training California teachers to restrain special needs children in prone and  
25 other types of restraints.

26  
27 At all times herein mentioned, defendant, Bruce Chapman, was the agent and  
28

1 employee, owner, alter-ego, president and founder of HWC, who developed a patented  
2 restraint system marketed through HWC to schools in California for use on "behaviorally  
3 challenged" children in California schools, including GHS, which lead to the injuries to  
4 student plaintiffs.

5  
6 19. Chapman is the inventor of the restraint system that was used at GHS. He utilized  
7 his own personal skills and experience in marketing the use of the restraint system to  
8 school districts in the State of California for use on special needs children within the state.  
9 He personally vetted and certified the instructors who taught his methods to GHS. The  
10 actual contracts were entered into with the corporation that Chapman runs out of his  
11 single family dwelling in rural upstate New York, called Handle With Care Behavioral  
12 Management Systems, Inc.. Chapman personally advocates the use of restraints within  
13 California for special needs students. Chapman personally was aware that his restraints  
14 should not be used on children who suffered the types of disabilities as were suffered by  
15 Max Benson.  
16

17 20. Chapman personally runs a website entitled "thetruthaboutpronerestraint.com".  
18 On the first page, whilst haranguing a mother who was upset because her autistic child  
19 had been put into a restraint, Chapman wrote:  
20

21 "For purpose of introduction, I am a qualified unarmed use of force/physical  
22 restraint/crisis intervention/behavior management expert and leading  
23 innovator in the creation of safe restraint including safe prone (face down)  
24 and supine (face up) physical restraining technology and training. I have  
25 offered expert testimony in many jurisdictions throughout the US, both in the  
26 prosecution of abuses and in defense of those accused of abuse...."

27 21. The webpage "the truth about Bruce Chapman". There it is written:

28 "Bruce is an expert in the fields of behavior management, unarmed  
use-of-force and the use of both physical and mechanical restraints.  
Throughout his 34 years career, Bruce has developed five separate  
proprietary training programs...He has personally produced many

1 thousands of HWC Certified Instructors and HWS users ... Bruce has been  
2 described as a true innovator in the field of physical and mechanical  
3 restraint....Bruce has testified as a use of force, behavior management,  
4 physical and mechanical restraint expert....He has worked for both Plaintiff  
5 and Defense counsels as a consultant and expert witness...."

6 22. At "Category Archives: California" one finds numerous references to incidents of  
7 violence in California schools. Chapman stated on page 3 of "truth about":

8 "If the long term goal is to prepare children to become self-sufficient,  
9 productive and law abiding citizens, we submit that expressly permitting the  
10 wanton destruction of property is completely contrary to that goal. If  
11 destroying property is unacceptable behavior by an adult it makes no sense  
12 to set a child up for failure in this way..."

13 23. Chapman states that killing of a child by a teacher would be "justifiable homicide"  
14 because the teacher would be "suppressing a riot" and "preserving peace." Chapman  
15 states that he believes that a teacher may use deadly force to protect property.

16 24. Chapman, personally, is the registrant of the handlewithcare.com website,  
17 according to "WHOIS" under which you can determine who is the owner of the website.  
18 A copy of the WHOIS page lists Chapman as the registrant, and "Registrant Organization"  
19 is left blank. The HWC website is used to promote Bruce Chapman, personally, as an  
20 expert witness across the United States, which includes California. Chapman offers his  
21 personal expertise to testify in California courts.

22 25. On July 20, 2011, Jennifer Gollan wrote an article for the Bay Citizen, a newspaper  
23 then-existing in the San Francisco area. The article was entitled "Questions are Raised  
24 on Restraint Training." The article references both Chapman and the corporation. Again,  
25 utilizing the internet, Chapman shot back a response directed to the editor of a California  
26 newspaper, posting entitled "Bay Citizen Comment 1."

27 26. In that letter, which is signed "BC", he writes:

28 "While I congratulate Bay Citizen for accomplishing the mission of kicking

1 HWC out of the {San Francisco Unified School} District, it will ultimately  
2 deprive the District's teachers and the special education students they serve  
3 from receiving the best crisis intervention training available, anywhere.....I  
4 would like to arrange a private meeting with the Board so that I may answer  
5 any questions for concerns they may have about my character and to  
6 personally demonstrate HWC's holding methods and safety protocols for  
7 them. I will travel to San Francisco at my own expense...."

9 27. In response to the Bay Citizen's editors' note back to Chapman, Chapman  
10 reiterates:

11 "I sincerely hope that the Board members who were quoted in this article  
12 can find the time to meet with me. We are sending my request directly to  
13 them."  
14

15 28. That is signed "BC". Not BC as President of HWC, rather, it is him personally.

16 29. Throughout the "back and forth" with the California editor about a California  
17 reporter who wrote a story in a California newspaper article on restraints, Chapman  
18 repeatedly signs his missives "BC", without reference to HWC. Chapman used just his  
19 initials "BC" again in another letter sent to Bay Citizen.  
20

21 "Bay Citizen Comment 2. LAST NIGHT'S 'BEHIND THE SCENES' STORY  
22 OF MS. GOLLAN'S SHENANIGANS - THE BACK AND FORTH BETWEEN  
23 HER EDITOR AND MYSELF."

24 30. Chapman states he was convinced that California Congressman George Miller's  
25 office was responsible for passing information about Chapman's activities to Jennifer  
26 Golan, the reporter at Bay Citizen.  
27

28 31. Chapman personally undertook numerous attempts to have that California

1 Congressman investigated by various entities including a complaint to a House  
2 Committee, the US Inspector General, and apparently even the entire US Congress.  
3 Chapman not only disseminated this via the internet, but he also specifically targeted  
4 California residents, including California Congressman Darrell Issa; the NDRN (National  
5 Disability Rights Network), which is active in California; P&A. (Protection and Advocacy)  
6 "all 50 states" as Chapman writes, the editor of Bay Citizen (the newspaper in California).  
7

8 He signed it:

9 32. "Bruce Chapman,

10 Individually and President of HWC".

11 33. He also posted on the internet an article about Jennifer Gollan, this time signed as  
12 the President of HWC, and he speaks of himself "personally" and in very personal detail.  
13

14 Chapman writes:

15 "I have been instrumental in derailing legislative efforts by the 'restraint-free  
16 movement' in multiple States and jurisdictions...In both submissions to  
17 Congress, I cite a constellation of Federal laws, Federal Administrative case  
18 law and the laws of all fifty States, including California. {P}. The  
19 restraint-free lobbyists who operate in California and throughout the United  
20 States will apparently stoop to anything necessary to prevent me from  
21 circulating this position paper because they have absolutely no response to  
22 it. When you have been as effect as I have been in derailing the dishonest  
23 movement - organized by people with no discernible expertise on the  
24 subject of restraint - you can expect retaliation.....Did she mention that I told  
25 her I was forced to quit school to raise my 9 month old son by myself? I will  
26 let my personal history and the integrity of my life's work speak for itself."  
27  
28

1 34. Chapman also personally wrote and disseminated via the internet an article that  
2 he presented to the Virginia Board of Juvenile Justice which his personal website  
3 (aboutbrucechapman.wordpress.com) says "was widely disseminated throughout the US."

4 The website page says:

5 "Bruce's first position paper..."  
6

7 35. The paper to which it refers is an article supporting the use of force by officers in  
8 the juvenile justice system. The aboutbrucechapman.wordpress.com website apparently  
9 was established after the filing of the original complaint, when Chapman migrated some  
10 of the content of his former personal website "brucechapman.com".

11 36. Chapman also personally authored an article entitled "How HWC holding methods  
12 create a calm mind state-faster". This article is posted on website of the California  
13 Evidence Based Clearinghouse for Child Welfare (commonly known as "CEBC"). The  
14 article refers extensively to his personal expertise, including such statements as:

15 "...when I was a young psychiatric technician...I came to realize....I  
16 postulated....I also concluded....I later made a distinction between what I  
17 call....Some of the holds that I performed with adults....my  
18 observations....something I was able to do in making my own anecdotal  
19 observations. In my view...."  
20  
21

22 37. The font is changed at the bottom of the third page where the article begins to tout  
23 his "physical intervention method." At the end of the article is the first place he refers to  
24 HWC, and he only refers tangentially to the article attached to the website that is used in  
25 California as "Information and Resources for Child Professions."

26 38. Although Chapman's moving papers state that Chapman did not train any GHS  
27 staff, that is not "the truth, the whole truth, and nothing but the truth." Subsequent to the  
28

1 filing of this lawsuit, HWC scrubbed its old website and replaced it with a new version in  
2 2020.

3 39. In this new website, when navigating around, one comes to a heading entitled  
4 "WHY HWC". Within that section it states "24/7 SUPPORT," which reads:

5 "Both, (sic) you and your Licensor have direct access to the person who  
6 actually created HWC for any technical questions or "how to" questions  
7 posed to us by phone or email - 24/7...We can provide expert testimony if  
8 it is ever needed..."

9  
10 40. In the former version of the website, captured when research was being done in  
11 preparing the complaint, the HWC website contained an article entitled "Handle With Care  
12 Behavioral Management System", which was used to promote the use of their system in,  
13 inter alia, in California schools. After stating on page 2 that "Handle With Care is the life's  
14 work of Bruce Chapman" it goes on, on page 3 to reassure California schools that what  
15 they are buying is Chapman's personal experience. It states:

16 "Your program will be conducted by a Handle With Care Master Instructor.  
17 They are the best professional trainers in the country, selected from the  
18 thousands of agency instructors that Bruce has personally certified over the  
19 last 15 years." (Emphasis added.)  
20

21  
22 41. At the end of that document was a two-page document entitled "Handle With Care  
23 Program Outline" A perusal of the program outline - what the trainers were certified by  
24 Chapman personally to teach - does not appear to teach anything with respect to children  
25 with serious physical disabilities, such as Max Benson had with his fused neck, brain  
26 tumor, neurological deficits, low muscle tone and obesity, and for whom a prone hold was  
27 completely counter-indicated. If Chapman wants to take credit for personally credentialing  
28

1 "Master Instructors" who taught GHS the techniques he personally invented, then he must  
2 also accept the responsibility when his personal invention and training led directly to a  
3 student's death.

4  
5 42. On page 9, is a one-page document entitled "About Bruce Chapman". This does  
6 not say "About HWC", rather "About Bruce Chapman." It states:

7 "Bruce Chapman is an inventor and author. ....Bruce created Handle with  
8 Care technology from 1973 to 1984 on the locked psychiatric unit of  
9 Pennsylvania Hospital in Philadelphia, where he was regarded as the  
10 hospital's authority on the prevention and management of aggression and  
11 suicide. He discovered HWC's proprietary holding method ...in 1974 at the  
12 age of 21. ...In 2001, he was granted a groundbreaking U.S. and  
13 International Patent for the PRT's integrated safeguard to prevent positional  
14 asphyxiation during a prone restraint. He created The Tension/Tension  
15 Reduction Cycle...in 1980. ...In 1995, Mr. Chapman created "Plus", a  
16 standalone defensive tactics training program ...He is a certified instructor  
17 for the New Jersey Police Training Commission and provides expert  
18 testimony on issues related to the use-of-force. ...In 1999, Bruce began a  
19 multiyear project to design and manufacture an innovative line of "modular"  
20 protection products ....The SoftCircle project has earned him 11 additional  
21 U.S. patents (9 remain pending more are expected.)"

22  
23  
24 43. Chapman then lists his professional affiliations, which for reasons of space are not  
25 reiterated here. From this it is clear that Chapman markets the restraint system using his  
26 own personal experience within the state of California. And from all of the foregoing, it  
27 can be seen that Chapman has sufficient minimum contacts, so as to purposefully avail  
28

1 himself of the forum benefits with respect to the use of his restraint system.

2 44. Chapman originally started HWC as a "dba" in or around 1984. A true and correct  
3 copy of the original trademark for "PRIMARY RESTRAINT TECHNIQUE (PRT), indicates  
4 a date of first use in Commerce in 1984.  
5

6 45. The trademark was registered in 1999.

7 46. Prior to the trademark being registered under the name of Bruce Chapman dba,  
8 HWC was organized under the laws of New York.

9 47. Pages from the New York Department of State show that the initial Department of  
10 State filing date was February 23, 1998.

11 48. The trademark was not cancelled for eight years after Chapman incorporated.

12 49. In 2006, the corporation filed for the trademark.  
13

14 50. The New York Department of State shows that the Chief Executive Officers are  
15 "Bruce Chapman & Hilary Adler" and that the Principal Executive Office is 184 McKinstry  
16 Rd., Gardiner, New York 12525.

17 51. Page 2 shows that the corporation has 200 shares of no par value stock.

18 52. The location of the "principal executive office" is a single-family residence in rural  
19 upstate New York.  
20

21 53. This is a single family dwelling located in an area zoned for rural agriculture.

22 54. It is not zoned for commercial purposes.

23 55. The residence and adjoining property is own by Bruce Chapman and Hilary Adler  
24 - the two Chief Executive Officers of the corporation.

25 56. The assessment rolls from [ulstercountyny.gov](http://ulstercountyny.gov) website, showing on page 1, the  
26 value of the residence assessed at \$503,000 and on page 2, the value of the adjacent  
27 vacant land at \$111,000.  
28

1 57. Chapman and Adler, who doubles not only as the Vice-President of HWC, both  
2 also as Chapman's and HWC's attorney, have filed lawsuits attempting to recover  
3 monetary damages on behalf of Bruce Chapman, personally, that normally would be  
4 assets of the corporation.

5  
6 58. In a published decision at 546 F.3d 230 (2008), one finds Chapman as the lead  
7 plaintiff, and HWC is also a plaintiff.

8 59. Chapman filed suit against numerous public and private officials - including such  
9 people as the former president of Cornell University - in his individual capacity. The first  
10 paragraph of the court's opinion (page 3 states:

11 "Plaintiffs-appellants Bruce Chapman and Handle With Care Behavior  
12 Management System, Inc., (collectively "HWC") market a training program  
13 ("Handle With Care") that teaches individuals a safe technique for  
14 restraining people."  
15

16 60. In another action, Bruce Chapman filed a qui tam action against various institutions  
17 and individuals in connection with his competitor who was the subject of the previous  
18 lawsuit.

19 61. Again he is represented by Adler.

20  
21 62. It is unknown if the complaint bore a different caption, but the court's opinion lists  
22 the plaintiff as "United States ex rel. Bruce Chapman." Throughout the complaint, the  
23 court refers to Chapman and HWC as one and the same entity.

24 "Plaintiff-Relator Bruce Chapman ('plaintiff' or 'Chapman') filed this qui tam  
25 action ...." "Chapman is president of Handle With Care Behavior  
26 Management System, Inc, ("HWC"), which markets and sells behavior  
27 management and physical restraint programs. In the earlier action noted  
28

1 above, he asserted federal copyright and antitrust causes of action...This  
2 alleged policy of requiring all New York State child care providers and  
3 juvenile facilities to use the {competitor's} method focused Chapman's HWC  
4 method from the market...." .... "In the present lawsuit, Chapman alleges  
5 five types of false claims....Chapman alleges....Finally, Chapman  
6 alleges...."

7  
8 63. The action was dismissed.

9 64. It can be seen that on Bruce Chapman's website  
10 (truthaboutbrucechapman.wordpress.com) there is yet another indication that Chapman  
11 does not regard HWC to be an entity separate from himself.

12  
13 65. The GAO Investigation 2 comment posted by Chapman, where he writes on page  
14 one:

15 "We allege that Congressman Miller, individually or through his staff, have,  
16 for a second time, abused his/their authority and have engaged in acts of  
17 harassment and predatory conduct against a United States citizen, small  
18 business owner and taxpayer for having the audacity to exercise my first  
19 amendment right to comment on proposed (H.R. 1381) legislation."  
20 (Emphasis added.)

21  
22 66. Chapman identifies the corporation as belonging to him. He continues:

23 "...Gollan's request for an interview and Gollen's final work product, best  
24 characterized as a smear attack is another example of the continued  
25 harassment and retaliation to which I and my company have been subjected  
26 to by Congressman Miller...."

## JURISDICTION AND VENUE

67. Gloria, Thomas, and Jordan V.M. have complied with the Tort Claims filing against CDE, ROCKLIN UNIFIED SCHOOL DISTRICT and PLACER COUNTY SELPA on March 24, 2019 for injuries and claims herein stated against said public entities.

68. Plaintiffs sue all Defendants in El Dorado County because all of the tortious acts occurred at 4900 Windplay Dr., El Dorado Hills, El Dorado County, California.

69. Plaintiffs are informed and believe that each of the LEA and NPS Defendants is the agent, ostensible agent, alter ego, master, servant, trustor, trustee, employer, employee, representative, affiliate, related entity, partner, and/or associate, or such similar capacity, of each of the other Defendants, and at all times acting and performing, or failing to act or perform, within the course and scope of each similar aforementioned capacities, and with the authorization, consent, permission or ratification of each of the other Defendants, and is personally responsible in some manner for the acts and omissions of the other Defendants in proximately causing the violations and damages complained of herein, and have participated, directed, and have ostensibly and/or directly approved or ratified each of the acts or omissions of each of the other Defendants, as herein described.

### GHS EMPLOYEES:

70. At all times herein mentioned, as to Plaintiff MARQUES defendants Staranne Meyers (hereinafter "MEYERS") was the principal and member of the board of GHS, Cindy Keller (hereinafter "KELLER") was the executive director of GHS, Phyllis RAMSEY (hereinafter "RAMSEY") was an administrator for GHS and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs,

1 activities, services, training, staff; and all of whom have direct responsibility for ensuring  
2 the safety and well-being of their students, and for ensuring compliance with state and  
3 federal laws. MEYERS, KELLER, RAMSEY and DOE defendants allowed and  
4 encouraged staff at GHS to intentionally and unlawfully assault and batter Plaintiff  
5 MARQUES.  
6

7 71. At all times herein mentioned, as to Plaintiffs Thomas and Jordan V.M., defendants  
8 MEYERS was the principal and member of the board of GHS, KELLER was the executive  
9 director of GHS, RAMSEY was an administrator for GHS, CHRISTENSEN was an  
10 administrator at GHS, NARAN was an administrator at GHS, and DOE defendants were  
11 officers, directors, and administrators of defendant GHS, all of whom have authority and  
12 control over GHS's programs, and facilities, including policies, practices, procedures,  
13 programs, activities, services, training, staff; and all of whom have direct responsibility for  
14 ensuring the safety and well-being of their students, and for ensuring compliance with  
15 state and federal laws. MEYERS, KELLER, CHRISTENSEN, RAMSEY, NARAN, Noel  
16 COLLIER (Special Education Teacher), and unknown DOE defendants allowed and  
17 encouraged staff at GHS to intentionally and unlawfully assault Plaintiffs Thomas and  
18 Jordan V.N.  
19

20 72. At all times herein mentioned, as to Plaintiff MARQUES defendants Delores  
21 ZOMBURY (hereinafter "ZOMBURY"), Vince ANDERSON (hereinafter "ANDERSON"),  
22 Ashley ROBB (hereinafter "ROBB"), Cary BRUCE (hereinafter "BRUCE"), Cory QUINCEY  
23 (hereinafter "CORY"), Bryna QUINCEY (Hereinafter "BRYNA"), David Chambers  
24 (hereinafter "CHAMBERS") Kera BRUCE (Hereinafter "BRUCE" , and DOE defendants  
25 were employed as teachers, and aides at GHS, who intentionally and unlawfully assaulted  
26 MARQUES and unlawfully inflicted corporal punishment upon him. They had authority and  
27  
28

1 control of the classroom, including policies, practices, procedures, facilities, and activities  
2 within the classroom. They are sued in their individual capacity and in their capacity as  
3 employees of GHS.

4  
5 73. The names and capacities, whether individual, corporate, otherwise, sued herein  
6 as DOES 1-100, inclusive, are presently unknown, and Plaintiff will amend the Complaint  
7 to insert them when ascertained.

8 **POINT QUEST EMPLOYEES**

9 74. Bill Tollestrup, Interim Director of El Dorado Hills, Bill Weber, Director of El Dorado  
10 Hills, Nicole DOE, Jennifer DOE and DOE defendants were employed as administrators,  
11 teachers, and aides at POINT QUEST, who intentionally and unlawfully assaulted Jordan  
12 V.M. and unlawfully inflicted corporal punishment upon him. They had authority and  
13 control of the classroom, including policies, practices, procedures, facilities, and activities  
14 within the classroom. They are sued in their individual capacity and in their capacity as  
15 employees of POINT QUEST.  
16

17 **ROCKLIN UNIFIED SCHOOL EMPLOYEES**

18 75. Kristain ROYER, Program Specialist, Beth DAVIDSON, Assistant Director of  
19 Special Education, and DOE defendants were employed as administrators at RUSD, who  
20 knew or should have known that POINT QUEST staff had intentionally and unlawfully  
21 assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had  
22 authority and oversight control of the program at POINT QUEST school, including policies,  
23 practices, procedures, facilities, and activities within the classroom. They are sued in their  
24 individual capacity and in their capacity as employees of RUSD.  
25  
26  
27  
28

**PLACER COUNTY SELPA EMPLOYEES**

76. Kristi Gregersen, Program Specialist, Troy TICKLE, Director, Placer County SELPA, and DOE defendants were employed as administrators at Placer County SELPA, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

77. Plaintiffs MARQUES, Thomas, and Jordan V.M. were placed at GHS and POINT QUEST by their respective school districts after representations were made to the minors' parents about both schools special skills, facilities and safe environment appropriate for their children. The placement was pursuant to each student's Individual Education Plan (IEP), as a result of their diagnosis as children with disabilities, because the school districts themselves determined they were unable to provide a Free Appropriate Public Education.

78. Defendants GHS, POINT QUEST, ROCKLIN UNIFIED SCHOOLS AND PLACER COUNTY SELPA have failed to adequately supervise their employees that resulted in the foreseeable physical harm to Plaintiffs. Defendants had a statutory duty to ensure that staff who came into contact with Plaintiffs would provide an environment free of abuse and neglect.

79. California law, including Cal Const, Art. I § 28, has long imposed on school authorities a duty to supervise at all times the conduct of children on school grounds and to enforce those rules and regulations necessary for their protection. Defendants also had

1 a duty to use reasonable measures to protect students from foreseeable injury at the  
2 hands of third parties acting intentionally or negligently.

3 80. Defendants have violated their statutory duties to Plaintiff, including their  
4 supervisory duties created under California Education Code sections 44807 and 44808.

5  
6 81. California Penal Code section 11166 which required them to report any knowledge  
7 of a child whom the mandated reporter knows or reasonably suspects has been the victim  
8 of child abuse or neglect to the agency immediately or as soon as is practically possible  
9 by telephone and the mandated reporter shall prepare and send, fax, or electronically  
10 transmit a written follow up report thereof within 36 hours of receiving the information  
11 concerning the incident.

12  
13 82. Defendants have violated their statutory duties to Plaintiffs Thomas and Jordan  
14 V.M., including multiple violations of California Education Code sections 56521.1 and  
15 56521.2 (and its predecessor legislation) that, in pertinent parts, suggest alternative  
16 interventions and/or prohibits the use of any interventions that:

17 1) cause physical pain; 2) simultaneously immobilize all four extremities, 3) apply  
18 an amount of force that exceeds that which is reasonable and necessary under the  
19 circumstances, or 4) subjects the individual to verbal abuse, ridicule, or humiliation,  
20 or that can be expected to cause excessive emotional trauma.

21  
22 83. Defendants have violated their statutory duty under California Penal Code section  
23 11165.4 which prohibits "unlawful corporal punishment or injury" against a child, defined  
24 as "any cruel or inhuman corporal punishment or injury resulting in a traumatic condition."

25 84. Defendants GHS and POINT QUEST violated its statutory duty under California  
26 Education Code section 260 by failing to enact an adequate formal or informal policy to  
27 ensure that GHS and POINT QUEST provided a learning environment free from  
28

1 discrimination based on the characteristics provided in California Education Code section  
2 220, specifically disability.

3 85. GHS was closed in 2018 after the State of California revoked their license to  
4 operate following the death of student Max Benson who was subjected to a restraint that  
5 killed him.

6  
7 86. After GHS was closed it was, allegedly, sold to POINT QUEST, and Jordan V.M.  
8 then attended Defendant POINT QUEST.

9 87. When POINT QUEST took over GHS facilities and educational duties, Gloria V.M.  
10 was assured by the Rocklin Unified School staff, Placer County SELPA, and POINT  
11 QUEST staff, expressly, by inference, or omission, that the previous policies and practices  
12 employed by GHS were, not only no longer employed, she was assured that the GHS  
13 employees were gone and would not be rehired at POINT QUEST.  
14

15 88. For more than a decade, the California Department of Education ("CDE"), school  
16 districts, county offices of education and Special Education Plan Areas ("SELPAs") -have  
17 known that using restraints on students, particularly in response to predictable  
18 disability-related behavior, carries serious risks for their physical and emotional health.

19 89. There have been many reports of students with behavioral challenges dying or  
20 sustaining serious injuries due to abusive use of restraint systems, such as the Handle  
21 With Care system developed by Defendant Bruce Chapman. It is also well-known that  
22 restraints are disproportionately used against children with disabilities.  
23

24 90. Despite this knowledge, nonpublic schools like Defendants GHS and POINT  
25 QUEST and their respective staffs continued to use such restraints frequently, in response  
26 to predictable behaviors that did not constitute an immediate or serious threat to the  
27 student or others, for extended periods of time, on students whose disabilities elevated  
28

1 the risk of using restraints, and with excessive force.

2 91. They could do so because the CDE, and the Local Educational Agency (LEA)  
3 Defendants abdicated their responsibilities to monitor and supervise GHS and POINT  
4 QUEST and ensure their compliance with state and federal laws prohibiting discrimination  
5 and the improper use of restraints.  
6

7 92. The CDE continued to certify GHS continues to currently certify POINT QUEST,  
8 and the LEA Defendants continued to contract with and place their students with  
9 disabilities in the respective schools.

10 93. Plaintiff students with developmental and other disabilities whose local educational  
11 agencies placed them at GHS and POINT QUEST pursuant to their Individualized  
12 Education Plans ("IEP")  
13

14 94. Each Plaintiff Student attended GHS sometime between 2006 and 2018, where its  
15 administrators and staff subjected them to excessive and harmful restraints and other  
16 aggressive physical interventions in response to known behaviors associated with their  
17 disabilities, resulting in physical and emotional abuse and injury, and in the case of one  
18 other student, death.  
19

20 95. GHS was, and POINT QUEST is, a nonpublic school-as that term is defined in Cal.  
21 Ed. Code § 56034-which contracted with the LEA Defendants to provide special education  
22 services to public school students with disabilities in exchange for state and federal  
23 educational funding.

24 96. As required by law, GHS and POINT QUEST entered into Master Contracts with  
25 the LEA's, as well as an Individual Services Agreement for each student placed there.  
26

27 97. Each of the Plaintiff Students' IEP's included a Behavioral Intervention Plan ("BIP")  
28 which described the student's known disability-related behaviors and the intervention

1 strategies and positive behavioral supports educators should use to prevent or respond  
2 to those behaviors.

3 98. Despite legal requirements (discussed below) and Defendants' knowledge of the  
4 dangers associated with restraints to students' physical and emotional health, GHS and  
5 POINT QUEST administrators and employees engaged in a policy and practice of using  
6 restraints as a substitute for the positive interventions detailed in the students' BIPs in  
7 response to predictable behavior that did not pose a clear and present danger of serious  
8 physical harm to the student or others. GHS and POINT QUEST used restraints against  
9 its students frequently, for periods of time that were longer than necessary, and with  
10 excessive force.  
11

12 99. These restraints-including prone restraints- in which the child is placed face down  
13 on the floor with one or more adults applying force from above to keep the child's body  
14 immobile-frequently lasted over an hour.  
15

16 100. Some students were restrained frequently, sometimes more than one time each  
17 day.  
18

19 101. The restraints and other aggressive physical interventions inflicted by GHS and  
20 POINT QUEST caused the Plaintiff Students physical and emotional injuries.

21 102. GHS and POINT QUEST administrators were not only aware of the abuse, but  
22 encouraged it and were responsible for the school's policy and practice of using frequent,  
23 excessive, harmful and lengthy restraints as a substitute for positive behavioral  
24 interventions in response to students' predictable, disability-related behaviors.

25 103. GHS and POINT QUEST did not provide adequate training in positive behavioral  
26 interventions, instead relying on Defendant Bruce Chapman's patented restraint system,  
27 Handle With Care Behavioral Management Systems, Inc. which was associated with  
28

1 numerous abuses by educational professionals on students with behavioral challenges.

2 104. GHS and POINT QUEST training in the HWC method ignored requirements of  
3 state and federal law and did not provide proper warnings regarding the risks associated  
4 with restraining students or safeguards for monitoring and responding to signs of distress.

5 105. Moreover, GHS and POINT QUEST took significant measures to conceal its  
6 illegal use of restraints and child abuse from parents and the LEAs with which it  
7 contracted by failing to provide required reports to the parents and the State of California.

8 106. Prior to the children's placement, GHS misrepresented orally, in enrollment  
9 documents, and in the children's IEP that the school focused on proactive, positive  
10 behavioral interventions and that corrective behavior would be "calm", "brief", and  
11 "respectful."  
12

13 107. The HWC Intervention Statement that parents had to sign as part of the enrollment  
14 packet emphasized positive intervention and "the 3-step prompt" which "entails a verbal  
15 request, followed by staff modeling and finally hand over hand with children who may have  
16 difficulty following directions . . . ." It represented that a restraint would be used only if the  
17 child appeared to be "a physical danger to themselves or others around them".  
18

19 108. GHS used the HWC terminology in referring to the most dangerous restraint-a  
20 prone restraint-as a "neutral" restraint. *Id.* These misrepresentations were repeated in the  
21 students' BIPs developed as part of the IEP process and a part of the agreement between  
22 the parent/student, the LEA, and GHS.  
23

24 109. When a student was restrained, GHS frequently failed to complete a Behavioral  
25 Emergency Report ("BER"), place the BER in the student's file, send it to the LEA, or  
26 notify the student's parent, as required by law and GHS's Master Contracts with the LEAs.  
27 Nor did GHS administrators or staff report the regular, systemic child abuse they  
28

1 witnessed and participated in at the school, despite the requirement to do so as mandated  
2 reporters.

3 110. GHS's use of restraints was so excessive in frequency, duration, force and  
4 purpose that any educator or monitoring official who personally observed the program for  
5 more than an hour would realize that the school and its staff had exceeded the legal  
6 bounds for emergency interventions and were physically abusing their students.

7  
8 111. However, the CDE and the LEAs ignored their legal duties to supervise and  
9 monitor the program and continued to place vulnerable students in its care. GHS would  
10 still be abusing its students were it not for the death of a 13-year-old student who died  
11 after he was held in a prone restraint for almost two hours on November 28, 2018.

12  
13 112. Plaintiff Thomas V.M. was a disabled student, placed at GHS on August 6, 2018,  
14 because of his diagnosis of his disability. Plaintiff Jordan V.M. was a disabled student,  
15 placed at GHS on February 22, 2018, because of his diagnosis of disability. All plaintiffs,  
16 due to their disabilities, engaged in repetitive conduct that disrupted their educational  
17 experience and abilities.

18  
19 113. Because of the disruption that affected other students, they were frequently placed  
20 in such restraints, which included but was not limited to, the imposition of restraints that  
21 constituted physical child abuse, battery, and assault.

22  
23 114. Referring to these restraints as though they were normal and accepted ways of  
24 disciplining plaintiffs, Defendant administrators, teachers and assisting staff, as  
25 individually identified below, preyed on plaintiffs because of their disability related conduct.

26  
27 115. These defendants assaulted and battered plaintiffs repeatedly rather than  
28 following the BIPs.

116. The LEA administrators, by and through their agency with GHS and POINT

1 QUEST administrators tasked unqualified and inadequately trained staff with supervising  
2 plaintiff students, who often failed to document and report incidents of abuse, and failed  
3 to take reasonable steps to prevent further abuse.

4 117. Plaintiffs, like other students who were also subjected to such conduct, would  
5 attend class and when a student acted consistently with their predictable behaviors stated  
6 in their individual BIP and IEP (and the reason(s) why they were placed at GHS and  
7 POINT QUEST) or failed to follow the directions of the GHS and POINT QUEST staff as  
8 individually described below, they would be subjected to painful restraints in full and open  
9 view of fellow students.  
10

11 118. Each plaintiff had specific conduct that was identified in their BIP, for which, each  
12 plaintiff had a set of less restrictive measures to be taken before a "hands on" physical  
13 intervention such as painful restraints would be exercised.  
14

15 119. Plaintiffs witnessed other students treated in the same way in their respective  
16 classes. The observation of such torturous conduct to other students and themselves  
17 caused Plaintiffs who were in their immediate presence to experience fear and anxiety  
18 such that they were terrorized in anticipation that they too might be hurt in the same way.  
19

20 120. As to MARQUES, the documented abuse occurred from as early as December 18,  
21 2006, when Plaintiff MARQUES began attending GHS through March 19, 2008, when he  
22 was removed. For Thomas and Jordan V.M., it began when they first began to attend  
23 GHS on February 22, 2018, and lasted until they were removed on or about the end of  
24 December 2018 and officially, in January, 2019.

25 121. Shortly after beginning to attend Defendant POINT QUEST, Thomas was  
26 assaulted, battered, and restrained in the same fashion as described below. He was  
27 removed on or about October 1, 2019 and officially October 22, 2019.  
28

1 122. No efforts were shown to protect plaintiffs from the continued abuse by the  
2 schools' administrations and, in fact, when complaints were made by plaintiff's respective  
3 parents, the administration of both schools backed their employees alleging the children  
4 were at fault and their employee's actions were necessary.

5  
6 123. Defendants GHS and POINT QUEST, and their individual staff members as  
7 particularly described below, carried out these series of abusive acts upon Plaintiffs and  
8 other students, terrorizing them throughout their time at the school generating Plaintiffs'  
9 deeply held fears of reoccurrence.

10 124. The harmful effects of the abuse suffered by all Plaintiffs at the hands of the staff  
11 directly abusing him have been compounded by all the Defendants' (as individually named  
12 below) willful failure to adequately report, document, respond to, and prevent the abuse.

13  
14 125. Even after each of the plaintiffs' parents approached the defendants as described  
15 below, requesting information about the abuse that would explain the children's injuries,  
16 conduct at home, and their account of events, defendant administrators at the respective  
17 schools failed to provide any meaningful information regarding what transpired in their  
18 children's classroom, covering up their conduct by providing false accounts of the events.

19  
20 126. Plaintiffs Thomas and Jordan V.M. are in another school in Washington State.

21 127. The alleged acts and Plaintiffs' damages are such that proceeding through due  
22 process before the Office of Administrative Hearings would be both futile and irrelevant.

23 128. Plaintiffs' injuries cannot be redressed under the IDEA's due process procedures  
24 because they were assaulted and are not seeking the types of remedies available under  
25 the IDEA, rather seeking remedies for physical and emotional damages resulting from  
26 being assaulted.

27  
28 129. In addition, Plaintiff MARQUES is an adult and outside of the educational system.

1 130. The same is true for Plaintiffs Thomas and Jordan V.M. who are both outside the  
2 State of California in a private religious school.

3 131. From records to be obtained by Plaintiffs, there were restraint incidents involving  
4 Plaintiffs and they expressly reserve their right to amend this Complaint to include  
5 additional facts and/or claims as discovery in this case proceeds.  
6

### 7 **OPERATIVE FACTS**

8 132. Plaintiffs incorporate by reference all preceding paragraphs as though fully set  
9 forth herein.

### 10 **AS TO PLAINTIFF MARQUES**

11 133. Over a one-and-one-half year period as specifically set forth below in each cause  
12 of action, Defendants ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA,  
13 CHAMBERS and DOE defendants repeatedly unlawfully assaulted Plaintiff MARQUES  
14 by grabbing him, pushing or otherwise forcing him to the floor and, in painful positions,  
15 pinning all four appendages for various periods of time, immobilizing him, including as  
16 punitive measures. All were either for an unnecessarily prolonged period of time or had  
17 failed to utilize the less restrictive measures set forth in his BIP for predictable behaviors  
18 related to his disability.  
19  
20

21 134. MARQUES was a student at GHS from 2006 to 2008. He was referred to GHS  
22 by Elk Grove School District employees.

23 135. MARQUES had both an Individual Education Plan (IEP) and a Behavioral  
24 Intervention Plan (BIP) at all relevant times herein.

25 136. Defendants GHS, MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON,  
26 ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOE defendants failed to file  
27  
28

1 Behavioral Emergency Reports or document injuries as required by law, so all of the dates  
2 of assaults all are unknown to MARQUES at the present time.

3 137. Those that are identified occurred on Sept. 12, 2006, Dec. 18, 2006, April 16,  
4 2007, April 23, 2007, September 4, 2007, September 5, 2007, October 31, 2007, March  
5 19, 2008, set forth in greater detail below.

6  
7 138. On September 12, 2006, and 9:50 AM, guiding hands employees Kera Bruce  
8 and Ashley Robb, put MARQUES in a restraint for 12 minutes because he failed to stand  
9 appropriately and when escorted from the line he was standing in, kicked a student and  
10 Bruce. He was restrained "per CPI". Both Dolores ZOMBURY and David Chapman  
11 participated in the restraint.

12  
13 139. On December 18, 2006, at 1:45 PM Ashley Robb and Kera Bruce instituted an  
14 eight minute restraint after MARQUES had been found to have a toy belonging to another  
15 student. What he was told to return the toy he began to kick his desk and a filing cabinet.  
16 He was placed in a basket restraint.

17  
18 140. On April 16, 2007 at 9 AM, MARQUES was put in a restraint for five minutes by  
19 ZOMBURY, after he refused to sit down and began throwing pencils and calling children  
20 names.

21  
22 141. On April 17, 2007, at 10 AM, MARQUES was put in a restraint by Dolores  
23 ZOMBURY for five minutes after he was told to put a pointer down and had slapped it on  
24 the desk of another student. When he was directed to sit down he ran around the room  
25 and was restrained.

26  
27 142. On April 17, 2007, at 10:50 AM, MARQUES was put in a restraint for 30 minutes  
28 by Dolores ZOMBURY and subsequently by a teacher's aide known only as "Laure", when  
MARQUES refused to give back a protein bar and be escorted to his seat. He kicked the

1 teacher and was taken to the "corner".

2 143. On April 23, 2007, at 8:35 AM, he was placed in a three minute restraint by  
3 ZOMBURY after another student had pushed him, rubbing "snot" on his jacket and in  
4 response he pushed that student down.

5 144. On April 23, 2007 11:30 AM, MARQUES was put in a restraint when he began  
6 swearing and started to run towards another student after he disregarded a request by the  
7 instructor to put his head down on his desk. The staff involved were ZOMBURY and  
8 Chambers.  
9

10 145. On September 5, 2007, 2 PM, MARQUES was put in a restraint by instructor  
11 Vince Anderson, because he failed to follow directions and began yelling in the presence  
12 of his mother.  
13

14 146. On March 19, 2008, CORY, BRYNA, CHAMBERS, and DOE defendants  
15 restrained MARQUES, forcing him to the floor and containing him in a "basket hold."

16 147. In this restraint, MARQUES was pushed to the ground and placed in a position  
17 for an extended period of time, while his arms were pulled behind his back. GHS staff sat  
18 at his back while he was in this position, increasing his pain and making it difficult for him  
19 to move.  
20

21 148. This incident arose when another child assaulted MARQUES with a rock and  
22 MARQUES defended himself.

23 149. When assaulted by GHS staff on March 19, 2008, MARQUES suffered bruises  
24 to his chest, burns to his elbows, and severe soft tissue damage to his back and buttocks  
25 as a result of these restraints.  
26

27 150. MARQUES subsequently suffered panic attacks, night-terrors, startles,  
28 depression and self-loathing as a result of these restraints.

1 151. MARQUES was abused on additional occasions while attending GHS.

2 152. MARQUES will seek leave to allege these dates according to proof when further  
3 information becomes available through the discovery process.

4 153. At all relevant times, MARQUES.'s behaviors were known and predictable and  
5 had previously been addressed in his Behavioral Intervention Plan.

6 154. The restraints imposed upon MARQUES, as herein alleged, constituted child  
7 abuse (Penal Code Section 273a), corporal punishment (Penal Code Section 273d) and  
8 battery (Penal Code Sec. 242), and torture (Penal Code Section 260) prohibited by  
9 California law.  
10

11 **AS TO THOMAS V.M.**

12 155. Thomas V.M. was restrained by GHS and POINT QUEST staff on many  
13 occasions the precise details are neither known to he nor his mother at this time, other  
14 than that described below.

15 156. Thomas V.M. was restrained by a staff member named "Jennifer" when  
16 attending POINT QUEST and, as a result, his mother immediately withdrew him from the  
17 school.  
18

19 157. Thomas V.M. knows that "Jennifer" was a previous staff member at GHS.  
20

21 **AS TO JORDAN V.M.**

22 158. Jordan V.M. was restrained by GHS staff on many occasions the precise details  
23 are neither known to he nor his mother at this time.  
24

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25 **FIRST CAUSE OF ACTION**

26 AS TO PLAINTIFF MARQUES Against GHS;  
27 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
28

1 CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
2 and DOES 1-100.  
3 (Violation of California Civil Code §§ 51, *et seq.*)

4 159. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though  
5 fully set forth herein.

6 160. Plaintiff MARQUES was a person with disabilities as defined by Cal. Civ. Code  
7 § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. He had been diagnosed with  
8 Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder and was limited  
9 in the major life activities of learning.

10 161. Plaintiffs THOMAS and JORDAN V.M. are persons with disabilities as defined  
11 by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. They had been  
12 diagnosed as Autistic.

13 162. Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND  
14 ROCKLIN SCHOOL DISTRICT are businesses establishment covered by California Civil  
15 Code §51.

16 163. GHS, POINT QUEST and their staffs subjected Plaintiffs to physical and  
17 emotional abuse in response to behavior that was a manifestation of Plaintiffs' disabilities  
18 as described above.

19 164. GHS and POINT QUEST discriminated against Plaintiffs in that they did not  
20 provide them with full and equal enjoyment of GHS' and POINT QUEST's goods,  
21 services, facilities, privileges, advantages, or accommodations.

22 165. Plaintiffs were not provided with the services, facilities, privileges, advantages  
23 and accommodations of GHS and POINT QUEST on a basis equal to that afforded to  
24 individuals without disabilities.

25 166. The discipline methods, behavior standards and criteria employed by GHS and  
26  
27  
28

1 POINT QUEST caused Plaintiff to be subjected to physical and emotional abuse as a  
2 result of his disabilities.

3 167. GHS and POINT QUEST failed to make reasonable modifications to their  
4 educational and behavioral intervention methods and staff training that were necessary  
5 to afford students with disabilities such as Plaintiff equal access to GHS's and POINT  
6 QUEST's goods, services, facilities, privileges, advantages and accommodations.

7  
8 168. The actions and failures to act of GHS and POINT QUEST violated Title III of  
9 the Americans with Disabilities Act of 1990, 42 U.S.C. § 121 Defendant has committed  
10 additional violations of the Unruh Civil Rights Act in that the conduct alleged herein  
11 constitutes a violation of various provisions of the Americans with Disabilities Act, 42  
12 U.S.C. sections 12181, *et seq.* As such, Defendant's actions also constituted a violation  
13 of the Unruh Act under Cal. Civ. Code § 51(f).  
14

15 169. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN  
16 UNIFIED SCHOOLS were the product of joint action between public entities and  
17 individual employees.

18 170. Defendants are liable to Plaintiffs for each and every offense for actual  
19 damages and multiple damages of up to three times the actual damages incurred, but  
20 in no case less than \$4000 per offense pursuant to California Civil Code section 52.  
21

22 171. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

23 **SECOND CAUSE OF ACTION**

24 Violation of Cal. Civ. 51.7 Ralph Civil Rights Act  
25 AS TO PLAINTIFF MARQUES Against GHS and DOES 1-100;  
26 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
27 CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT  
28

172. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though

1 fully set forth herein.

2 173. Defendants in doing the acts described above violated Plaintiffs' rights under  
3 the Ralph Civil Rights Act.

4 174. Plaintiffs have the right to be free from any violence, or intimidation by threat of  
5 violence, committed against their persons or property because of any characteristic listed  
6 or defined in subdivision (b) or (e) of Section 51, because another person perceives them  
7 to have one or more of those characteristics.

8 175. In committing the acts described above, all defendants have violated Plaintiffs'  
9 rights by subjecting them to violence and intimidation.

10 176. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN  
11 UNIFIED SCHOOLS were the product of joint action between public entities and  
12 individual employees.

13 177. Defendants are liable to Plaintiffs for each and every offense for actual  
14 damages and multiple damages of up to three times the actual damages incurred, but  
15 in no case less than \$4000 per offense pursuant to California Civil Code section 52.

16 178. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

17 **THIRD CAUSE OF ACTION**

18 For Interference with Exercise of Civil Rights in  
19 Violation of California Civil Code Section 52.1

20 AS TO PLAINTIFF MARQUES Against GHS and DOES 1-100  
21 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
22 CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT

23 179. Plaintiff Incorporate, by reference herein, all preceding paragraphs , as though  
24 fully set forth herein.

25 180. California Civil Code 52.1 provides that it is unlawful to interfere with the  
26

1 exercise or enjoyment of any rights under the Constitution and the laws of this state and  
2 the United States by attempted use of threats, intimidation or coercion.

3 181. The California Constitution establishes the right to a free public education to all  
4 students on an equal basis. *Butt v. California*, 4 Cal. 4th 668, 685 (1992).

5 182. California Civil Code section 43 guarantees the right of every person to be free  
6 from bodily restraint or harm and personal insult.

7 183. In doing the things herein alleged, Defendants intentionally interfered with and  
8 attempted to interfere with Plaintiff's civil rights by threats, intimidation, or coercion.

9 184. Defendants acted violently against Plaintiff, thereby preventing him from  
10 exercising his rights.

11 185. Defendants' conduct caused Plaintiff to suffer physical and emotional harm.

12 186. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN  
13 UNIFIED SCHOOLS were the product of joint action between public entities and  
14 individual employees.

15 187. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY  
16 SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as  
17 herein alleged, was a substantial factor in causing said harm to Plaintiff.

18 188. Defendants' GHS and POINT QUEST's employees, violated Plaintiffs' rights by  
19 using a physical restraint technique that impaired Plaintiffs' ability to breathe; placing  
20 Plaintiffs in a face down position with the pupil's hands held or restrained behind the  
21 pupil's back; and by using a behavioral restraint for longer than was necessary to contain  
22 the behavior that allegedly posed a clear and present danger of serious physical harm  
23 to the pupil or others.

24 189. Defendant employees of GHS and POINT QUEST acted with conscious  
25

1 disregard of Plaintiffs' rights and the fact that their conduct was certain to cause injury  
2 and/or humiliation to Plaintiffs. Plaintiffs are informed and believe that Defendant  
3 employees of GHS and POINT QUEST intended to cause fear, physical injury and/or  
4 pain and suffering to Plaintiff. Plaintiff is therefore entitled to recover punitive and  
5 exemplary damages.  
6

7 190. Plaintiff is also entitled to actual and/or statutory damages, as well as  
8 reasonable attorneys' fees and costs as set by the Court.

9 **FOURTH CAUSE OF ACTION**

10 (Violation of California Education Code §§ 200, 201, 220, and 260 et seq. -  
11 Against Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND  
12 ROCKLIN SCHOOL DISTRICT MEYERS, KELLER, RAMSEY, ZOMBURY,  
ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS

13 191. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
14 fully set forth herein.

15 192. Plaintiffs are individuals with disabilities.

16  
17 193. At all times relevant to this complaint, Defendant GHS was an educational  
18 institution providing education to students from kindergarten through twelfth grade and  
19 receiving financial assistance from the State of California.

20 194. Defendants discriminated against Plaintiff on the basis of his disability by  
21 subjecting him to physical and emotional abuse in response to disability-related behavior.

22 195. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN  
23 UNIFIED SCHOOLS were the product of joint action between public entities and  
24 individual employees.  
25  
26  
27  
28

1       196. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY  
2 SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as  
3 herein alleged, was a substantial factor in causing said harm to Plaintiff.

4       197. As a proximate cause of the actions of Defendants herein, Plaintiff is entitled  
5 to damages in an amount according to proof and reasonable attorneys' fees and costs.  
6

7  
8                                   **FIFTH CAUSE OF ACTION**

9                   Assault and Battery Pursuant to California Penal Code Section 206  
10       AS TO PLAINTIFF MARQUES Against MEYERS, KELLER, RAMSEY, ZOMBURY,  
11       ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOES 1-100  
12       AS TO PLAINTIFFS THOMAS AND JORDAN V.M.  
13       against defendants MEYERS, KELLER, RAMSEY, "JENNIFER"DOE

14       198. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
15 fully set forth herein.

16       199. MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON, ROBB, BRUCE,  
17 CORY, BRYNA, CHAMBERS, MEYERS, KELLER, RAMSEY, "JENNIFER"DOE, and  
18 DOE defendants , with the intent to cause cruel or extreme pain and suffering for the  
19 purpose of persuasion, or for a sadistic purpose, inflicted significant injury upon Plaintiff  
20 by repeatedly assaulted Plaintiff throwing him to the ground and causing bruises,  
21 contusions and lacerations.

22       200. As a result, Plaintiff suffered physical and psychological injuries.

23       201. Defendants acted with the intent to cause injury and that action and intention  
24 was despicable, done with a willful and knowing disregard of the rights of Plaintiff.  
25  
26  
27  
28

1       202. Defendants acted knowingly and aware of the probable consequences of their  
2 conduct and deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel  
3 and unjust hardship.

4       203. Defendants' conduct, assaulting a disabled child is so vile, base, and  
5 contemptible that it would be looked down upon and despised by reasonable people.  
6

7       204. Defendants' conduct in intentionally assaulting and restraining Plaintiff knowing  
8 of his disability condition is malicious and outrageous such that exemplary damages  
9 should be awarded.

10       205. WHEREFORE, Plaintiff prays for judgment for damages according to proof.

11                                   **SIXTH CAUSE OF ACTION**

12                                   **ASSAULT AND BATTERY**

13  
14       i)Against Defendants MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON,  
15 ROBB, BRUCE, CORY, BRYNA, CHAMBERS, "JENNIFER DOE," DOES 1-100

16       206. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
17 fully set forth herein.

18       207. In doing the things herein alleged, said defendants intended to cause, and did  
19 cause Plaintiffs MARQUEZ, Thomas and Jordan V.M. to suffer harmful or offensive  
20 contact.  
21

22       208. As a result of said conduct of said defendants, Plaintiffs MARQUEZ, Thomas  
23 and Jordan V.M., reasonably believed that they were about to be touched in a harmful  
24 or offensive manner, and in a manner that offended a reasonable sense of personal  
25 dignity.  
26  
27  
28

1       209. In doing the things herein alleged, said defendants threatened to touch  
2       MARQUEZ, Thomas and Jordan V.M. in a harmful or in an offensive manner.

3       210. At all times herein mentioned, it reasonably appeared to MARQUEZ, Thomas  
4       and Jordan V.M. that said defendants were about to carry out the threat.

5       211. At all times herein mentioned, MARQUEZ, Thomas and Jordan V.M. did not  
6       consent to the conduct of said defendants.

7       212. MARQUEZ, Thomas and Jordan V.M. suffered harm, as herein alleged.

8       213. The aforementioned conduct of said defendants was a substantial factor in  
9       causing MARQUEZ, Thomas and Jordan V.M. harm. The conduct of said defendants,  
10       caused MARQUEZ, Thomas and Jordan V.M. to be apprehensive that said defendants  
11       would subject MARQUEZ, Thomas and Jordan V.M. to further intentional invasions of  
12       their right to be free from harmful and offensive contact, and demonstrated that at all  
13       times material herein, said defendants had a present ability to subject MARQUEZ,  
14       Thomas and Jordan V.M. to an intentional offensive and harmful touching.

15       214. Said defendants' unlawful conduct, as herein alleged, was a substantial factor  
16       in causing MARQUEZ, Thomas and Jordan V.M. to suffer physical and emotional injury,  
17       and future physical and emotional injury, all in an amount within the jurisdiction of the  
18       court according to proof at trial.

19       215. At all relevant times, said defendants acted with conscious disregard of  
20       MARQUEZ, Thomas and Jordan V.M. rights, safety, physical well-being and feelings.  
21       Said defendants also acted with the knowledge of, or with reckless disregard for, the fact  
22       that their conduct was certain to cause injury and/or humiliation to MARQUEZ, Thomas  
23       and Jordan V.M. Said defendants intended to cause fear, physical injury and/or pain and  
24       suffering to MARQUEZ, Thomas and Jordan V.M.

1       216. By virtue of the foregoing, the estate of MARQUEZ, Thomas and Jordan V.M.  
2 are entitled to recover punitive and exemplary damages from individual and non-public  
3 entity defendants according to proof at trial. Estate of MARQUEZ, Thomas and Jordan  
4 V.M. make no claim for punitive damages against the named defendants.  
5

6                               **SEVENTH CAUSE OF ACTION**

7                               **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
8                               **(ASSERTED BY Gloria V.M. against all RUSD, PLACER COUNTY SELPA, GHS**  
9                               **AND RUSD ADMINSTRATORS defendants,**  
10                              Thomas and Jordan V.M. against defendants David CHAMBERS, Susan Jane  
11                              BATTLE, "Cory" Doe, Cory QUINCEY, Byrna QUINCEY, Noel COLLIER, Ashley  
12                              ROBB, Dolores ZUMBURY, Vince ANDERSON, Nicole Doe, Jennifer Doe.

13       217. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
14 fully set forth herein.

15       218. In doing the things herein alleged, the conduct of said defendants was  
16 outrageous in that it was so extreme as to exceed all bounds of that usually tolerated in  
17 a civilized community.

18       219. Said defendants inflicted actual injury and/or acted with reckless disregard of  
19 the probability that Plaintiffs Gloria, Thomas and Jordan V.M. would suffer emotional  
20 distress, knowing that the children who was restrained, including Gloria, Thomas and  
21 Jordan V.M., were present when the conduct occurred.

22       220. The conduct of said defendants, as herein alleged, was a substantial factor in  
23 causing Gloria, Thomas and Jordan V.M., to suffer severe emotional distress, severe  
24 mental anguish, humiliation, pain, and physical distress.

25       221. Said defendants knew or should have known that Gloria, Thomas and Jordan  
26 V.M. did not need to be, for their safety or the safety of others, and did not want to be,  
27  
28

1 physically forced into prolonged prone restraints, standing, seated, settled and/or small  
2 child restraints.

3 222. Said defendants' knowing disregard for the safety of Gloria, Thomas and Jordan  
4 V.M. and said defendants' deliberate failure to monitor and control their behavior towards  
5 exceptional needs students, such as Gloria, Thomas and Jordan V.M. caused Thomas  
6 and Jordan V.M. to be repeatedly battered and assaulted by teachers and aides at GHS  
7 and POINT QUEST.  
8

9 223. Said defendants' conduct was extreme and outrageous.  
10

11 224. Said defendants acted willfully and wantonly, and with reckless disregard for  
12 plaintiffs' rights and feelings, and with deliberate indifference to the certainty that Gloria,  
13 Thomas and Jordan V.M. would suffer emotional distress.

14 225. The outrageous conduct of said defendants described herein was willful and  
15 malicious and was performed with conscious disregard for the rights, safety, physical  
16 well-being and feelings of the Gloria, Thomas and Jordan V.M. As a result, Gloria,  
17 Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual  
18 and non-public entity defendants in a sum according to proof.  
19

## 20 EIGHTH CAUSE OF ACTION

### 21 FALSE IMPRISONMENT CONSPIRACY TO COMMIT FALSE IMPRISONMENT

22 ASSERTED by Thomas and Jordan V.M. against all individual defendants  
23

24 226. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
25 fully set forth herein.

26 227. Said defendants, in concert with one another, did intentionally and unlawfully,  
27 and conspired to, exercise force, threat, implied threat of force, or duress, to restraint and  
28

1 confine Thomas and Jordan V.M. , and deprive them of their freedom of movement,  
2 when said defendants committed the acts described herein.

3 228. Thomas and Jordan V.M. did not knowingly or voluntarily consent to said  
4 restraints.

5 229. As a proximate cause of the restraints, Thomas and Jordan V.M. suffered actual  
6 physical and emotional harm, as herein alleged.

7 230. That the conduct of said defendants, as herein alleged, was a substantial factor  
8 in causing harm to Thomas and Jordan V.M.

9 231. The outrageous conduct of the said defendants was willful and wanton, and was  
10 performed with conscious disregard for the rights, safety, physical well-being and feelings  
11 of Thomas and Jordan V.M.

12 232. As a result, Thomas and Jordan V.M. are entitled to punitive or exemplary  
13 damages from individual and non-public entity defendants in a sum according to proof  
14 at time of trial.

15  
16  
17 **NINTH CAUSE OF ACTION**

18 **NEGLIGENCE**

19 Asserted by Gloria, Thomas and Jordan V.M. against all defendants.

20 233. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as  
21 though fully set forth herein.

22 234. Said defendants breached their duty towards Thomas and Jordan V.M. by:

23 a. Failure to develop and maintain effective procedures governing emergency  
24 interventions;

25 b. Failure to obtain proper training for use of behavioral emergency interventions  
26  
27  
28

- c. Failure to provide oversight on the use of restraints
- d. Failure to develop protocols for use of restraints
- f. Failure to prohibit restraints on physically disabled children
- g. Failure to prohibit prolonged restraints (anything over 15 minutes)
- h. Failure to require that Thomas and Jordan V.M. be released from a restraint at the earliest possible moment.
- i. Failure to prohibit the use of any restraint when contraindicated by Thomas and Jordan V.M. medical or psychological conditions, which were known to increase the risk of physical injury.
- j. Failure to prohibit restraints that constrict the child's ability to breathe.
- k. Failure to prohibit the use of multiple staff members in a restraint, which exponentially increases the risk of injury.
- l. Failure to provide for the comfort of Thomas and Jordan V.M. while in prone restraint, including, but not limited to: offering Thomas and Jordan V.M. fluids, bathroom use, exercise, range of motion and periodic release of limbs.
- m. Failure to require monitoring by staff of the vital signs of the child regularly throughout the restraint.
- n. Failure to require continuous, close supervision of a restraint by the HWC trainer or another staff member who is not involved in the restraint.
- o. Failure to require immediate and accurate reporting on each restraint
- p. Failure to conduct a prompt and thorough review of any restraint imposed as a means to ensure compliance with laws and policies; to ensure continuing safety of students; and to prevent other incidents of restraint.
- q. Failure to provide for:

- 1 -primary preventative measures rather than restraint;
- 2 -interventions that are less intrusive than restraints;
- 3 -effective ways to de-escalate situations to avoid restraints; and
- 4 -crisis intervention techniques that utilize alternatives to restraint.

5  
6 r. Failure to provide staff with resources and tools to properly respond to the needs  
7 of those whom they serve and to be able to identify and address the triggers that may  
8 cause emotionally disturbed children to react in ineffectual ways to the environment.

9 s. Failure to teach students adaptive behaviors, especially involving autistic children  
10 who do not have effective ways of communicating and interacting with others.

11 t. Allowing use of physical restraints on children which:

- 12 - create an aversive environment counterproductive to facilitating learning;
- 13 - cause significant physical harm, serious, foreseeable long term psychological
- 14 impairment.

15  
16 u. Failure to provide oversight on the use of restraints to determine

- 17 - whether the intervention was necessary
- 18 - whether each restraint was implemented in a manner consistent with staff
- 19 training, as well as school and District (SELPA) policy.

20  
21 v. Failed to document injuries caused by restraint and

22 w. Failed to get medical attention for a child who was injured while in restraint.

23 235. As a foreseeable result of the breach of said mandatory duties by said  
24 defendants, said school staff at GHS and POINT QUEST imposed numerous and  
25 prolonged prone restraints on Thomas and Jordan V.M. as hereinabove alleged,  
26 resulting in injuries to Thomas and Jordan V.M.

27  
28 236. Breach of said mandatory duties by said defendants was a substantial factor

1 in causing injuries Thomas and Jordan V.M.

2 237. At all times herein mentioned said defendants breached the general duties  
3 of due care of educational professionals toward Thomas and Jordan V.M. who were  
4 disabled students under their guidance and care.

5 238. At all times herein mentioned, said defendants willfully, knowingly,  
6 intentionally, maliciously, and routinely used or encouraged the use of prone and  
7 other restraints on special needs/disabled children, including Thomas and Jordan  
8 V.M. as a form of corporal punishment in violation of California law.

9 239. At all times herein mentioned, said defendants willfully, knowingly,  
10 intentionally, maliciously, and routinely used or encouraged the use of prone and  
11 other restraints, known by said defendants to be dangerous, on disabled children,  
12 including on Thomas and Jordan V.M. with reckless disregard for the safety of said  
13 children.

14 240. At all times herein mentioned, said defendants, in doing each of the afore-  
15 mentioned acts, willfully, knowingly, intentionally, maliciously, and routinely used, or  
16 encouraged the use of, prone and other restraints, to injure special needs/disabled  
17 children and to create a reign of terror within the educational environment, in place  
18 and instead of providing educational services for special needs/disabled children, for  
19 which they were hired.

20 241. As a direct and foreseeable result of the negligence of said defendants  
21 learning of the death of Max Benson, plaintiffs and their own injuries Thomas and  
22 Jordan V.M. suffered physical and emotional injuries.

23 242. The negligence of said defendants was a substantial factor in causing injury  
24 Thomas and Jordan V.M. to suffer physical and emotional injuries.  
25  
26  
27  
28

1       243. By virtue of the willful and wanton, knowing, intentional, malicious acts of  
2       said defendants, and acts by said defendants that were done and acts done in  
3       reckless disregard for the safety and lives of Thomas and Jordan V.M., Thomas and  
4       Jordan V.M. are entitled to punitive damages against individual non-public entity  
5       defendants according to an award at the time of trial.  
6

7                               **TENTH CAUSE OF ACTION**

8                               **NEGLIGENT SUPERVISION**  
9                               **ASSERTED BY Thomas and Jordan V.M.**

10       244. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as  
11       though fully set forth herein.

12       245. Said defendants had a legal duty to exercise reasonable care in supervising  
13       special needs students in its respective charge pursuant to California Education Code  
14       section 44807 and may be held liable for injuries proximately caused by the failure to  
15       exercise such care.  
16

17       246. Said defendants failed to exercise reasonable care in supervising Thomas  
18       and Jordan V.M. when they suffered the abuse as described herein.

19       247. Said defendants breached their duties to Thomas and Jordan V.M. when  
20       they failed to supervise Thomas and Jordan V.M., its administrators and staff during  
21       the abuse, and failed to ensure that GHS and POINT QUEST administrators and staff  
22       were adequately trained and provided proper supervision.  
23

24       248. As a direct and proximate result of the actions of said defendants as alleged  
25       herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages  
26       according to proof.

27                               **ELEVENTH CAUSE OF ACTION**  
28

249. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein

251. Said violations were of the statutes specifically intended to protect the class of plaintiff and to prevent the injuries as those described herein.

253. As a direct and proximate result of the actions of said defendants as alleged herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages according to proof.

**Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing  
Asserted by the Plaintiffs Marques, Gloria, Thomas and Jordan V.M. Against  
Defendants GHS, Meyers, Keller, Point Quest,  
Troy Tickle, Kristi Gregerson, Cara Bruce and Doe Defendants**

255. Upon the respective enrollment of Marques, Thomas and Jordan V.M. entered into a written contract with GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce and DOE defendants for the education of their children.

1       256. At all times herein mentioned, Marques, Thomas and Jordan V.M. were  
2 intended third party beneficiaries to the afore-mentioned contracts entered into  
3 between their parents and defendants GHS, MEYERS, KELLER, POINT QUEST,  
4 Troy Tickle, Kristi Gregerson, Cara Bruce and DOE defendants.

5  
6       257. As a part of said contract, GHS, MEYERS, KELLER, POINT QUEST, Troy  
7 Tickle, Kristi Gregerson, Cara Bruce and DOE defendants provided each of said  
8 parents, with a copy of GHS' and POINT QUEST's parent/teacher handbook in which  
9 GHS and POINT QUEST indicated that they had a system of positive behavior  
10 intervention and support. The GHS handbook also indicated that defendant GHS  
11 would "customize" the system to support student outcomes and "interact with  
12 students in a way that promotes social proficiency." The GHS handbook states that  
13 "social competence is a skill that requires direct teaching." The handbook assured  
14 parents that adult behavior when correcting a child would be "calm", "brief", and  
15 "respectful."  
16

17       258. As part of the contract between said parties and defendants GHS, MEYERS,  
18 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
19 defendants promised to plaintiffs, and each of them, not to discriminate in any activity  
20 against any student based on physical or mental disability and further promised to  
21 prohibit intimidation or harassment by any employee of defendant GHS, MEYERS,  
22 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
23 defendants against any student based on physical or mental disability.  
24

25       259. As part of said contract, defendants GHS, MEYERS, KELLER, POINT  
26 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to  
27 plaintiffs, and each of them, to use Positive Behavior Interventions and Supports to  
28

1 correct inappropriate behavior and to interact with students in a way which promotes  
2 social proficiency and academic success, using as examples "positive language and  
3 redirecting behavior using a lesson."

4 260. As part of said contract defendants GHS, MEYERS, KELLER, POINT  
5 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to  
6 plaintiffs, and each of them, that adult behavior when correcting a child would be  
7 "calm, consistent, brief, immediate and respectful," and that their behavior intervention  
8 approach involved a three step prompt "verbal, modeling, hand-over-hand."  
9

10 261. As part of said contract defendants GHS, MEYERS, KELLER, POINT  
11 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to  
12 plaintiffs, and each of them, that restraints would be imposed only if the child was a  
13 danger to himself or others so as to de-escalate and re-integrate into classroom  
14 activities; the restraints and their possible consequences for injury and death were not  
15 truthfully or accurately described to plaintiffs, and each of them, by defendants GHS,  
16 MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and  
17 DOE defendants; and the most dangerous type of restraint, a prone restraint, was  
18 described by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
19 Gregerson, Cara Bruce, and DOE defendants to each of MARQUES, Thomas and  
20 Jordan V.M's parents in innocuous language as a "neutral" restraint.  
21

22 262. Plaintiffs, and each of them, did all of the significant things that the contract  
23 required them to do.  
24

25 263. At all times herein mentioned, all of the conditions required for defendant  
26 GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce,  
27 and DOE defendants had occurred.  
28

1       264. Defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
2 Gregerson, Cara Bruce, and DOE defendants unfairly interfered with the rights of  
3 plaintiffs, and each of them, to receive the benefits of the contract by engaging in the  
4 conduct as herein alleged.

5  
6       265. Defendant GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
7 Gregerson, Cara Bruce, and DOE defendants' interference with the afore-mentioned  
8 benefits of the contract was done in bad faith in that defendants routinely imposed  
9 corporal punishment, in addition to dangerous prone and other restraints, on special  
10 needs/disabled children under their care.

11       266. By virtue of the bad faith interference with the contract benefits by  
12 defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson,  
13 Cara Bruce, and DOE defendants with said plaintiffs' contractual rights, plaintiffs  
14 MARQUES, Thomas and Jordan V.M., suffered severe emotional distress.

15  
16       267. By virtue of the bad faith interference by defendants GHS, MEYERS,  
17 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
18 defendants with said plaintiffs' contractual rights are entitled to medical and  
19 therapeutic costs.

20  
21       268. By virtue of the bad faith interference by defendants GHS, MEYERS,  
22 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
23 defendants with said plaintiffs' contractual rights, Gloria V.M. and the beneficiaries of  
24 said contract, Thomas and Jordan V.M., have suffered severe emotional and physical  
25 distress at having the respective children injured by being placed in prone and other  
26 restraints because of their autism and other disabilities.

27  
28       269. By virtue of said bad faith interference with contractual benefits, all plaintiffs

1 suffered physical and emotional injuries, and future general and special damages as  
2 herein alleged.

3 270. The bad faith interference by defendants GHS, MEYERS, KELLER, POINT  
4 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants was a  
5 substantial factor in causing each of the afore-mentioned injuries to plaintiffs, and  
6 each of them.

7  
8 271. In doing the things herein alleged, defendants GHS, MEYERS, KELLER,  
9 POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants  
10 acted recklessly and with conscious disregard for the rights of plaintiffs, and each of  
11 them, willfully and maliciously exceeding the bounds of all behavior in a civilized  
12 behavior, brutalizing special needs/disabled children who had been entrusted to their  
13 care by their parents so as to receive an education that would allow their children to  
14 grow into well adjusted, well-functioning adults. As a consequence, plaintiffs, and  
15 each of them, are entitled to punitive damages.

16  
17 **THIRTEENTH CAUSE OF ACTION**

18 **FRAUD**

19 Asserted by Gloria V.M.

20 272. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as  
21 though fully set forth herein.

22 273. On or about the date of enrolling their respective children in defendant GHS,  
23 defendants, GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants,  
24 represented to Gloria V.M. that said defendants would not to discriminate in any  
25 activity against any student at GHS based on physical or mental disability under Title  
26 IX, Education Code section 106.8(a)(d) and 106.9.8(a); that they prohibited  
27  
28

1 intimidation or harassment by any employee of defendants GHS and POINT QUEST  
2 against any student based on physical or mental disability; that said defendants and  
3 their employees would use Positive Behavior Interventions and Supports to correct  
4 inappropriate behavior and to interact with students in a way which promotes social  
5 proficiency and academic success, including using "positive language and redirecting  
6 behavior using a lesson"; that behavior by GHS' staff when correcting a child would be  
7 "calm, consistent, brief, immediate and respectful,"; that GHS and POINT QUEST  
8 behavior intervention approaches involved a three step prompt "verbal, modeling,  
9 hand-over-hand"; and that restraints would be imposed only if the child was a danger  
10 to himself or others so as to de-escalate and re-integrate into classroom activities.

11  
12 274. On or about the dates of the respective enrollment of Thomas and Jordan  
13 V.M., at GHS and POINT QUEST, PLACER and ROCKLIN UNIFIED SCHOOLS and  
14 their employees represented to Gloria V.M that they were required to sign a form  
15 allowing defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants,  
16 to impose restraints on said plaintiffs' respective children, with the implied threat that if  
17 they did not sign the form their respective children would not be enrolled at GHS,  
18 which was the only school available to educate said children, and therefore, the  
19 parents would be in violation of California's mandatory education law.

20  
21 275. That the afore-mentioned representations of defendants, were false, and  
22 Gloria V.M. learned that they were false on or after November 29, 2018, upon the  
23 death of MAX, when they discovered that they did not have to allow or consent to the  
24 use of restraints against their disabled children.

25  
26 276. Said defendants knew that said representations were false when they made  
27 them, and/or said defendants made the representations recklessly and without regard  
28

1 for the truth of said representations.

2 277. Said defendants intended that GLORIA V.M. rely on said representations.

3  
4 278. GLORIA V.M. reasonably relied on said representations, and enrolled their  
5 respective children at defendant GHS to receive an education.

6 279. GLORIA V.M. were harmed by said intentional representations, in that each  
7 of said plaintiffs suffered severe emotional distress upon seeing their respective child  
8 injured at the hands of GHS and its staff after being placed in prone and other types  
9 of restraints for known behaviors related to the child's special needs and disability,  
10 and which behaviors did not present a clear and present danger to himself or others;  
11 and further plaintiffs, Thomas and Jordan V.M. suffered severe emotional distress  
12 when MAX was injured and killed after he had a behavioral outburst as a result of  
13 being isolated from the rest of the class with no staff member near him to keep him  
14 calm.  
15

16  
17 280. GLORIA V.M. reliance on said representations was a substantial factor in  
18 causing the severe emotional distress of said plaintiffs.

19 281. At all relevant times, said defendants acted with conscious disregard of the  
20 rights and feelings of GLORIA V.M. , and acted with the knowledge of, or with  
21 reckless disregard for, the fact that their conduct was certain to cause severe  
22 emotional distress to said plaintiffs. By virtue of the foregoing, said plaintiffs are  
23 entitled to recover punitive and exemplary damages from non-public entity defendants  
24 according to proof at the time of trial.  
25

26 **DAMAGES**

27 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:  
28

**FIRST CAUSE OF ACTION**

**INTERFERENCE WITH THE EXERCISE OF  
CIVIL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTIONS 51*et seq***

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
- 10 Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SECOND CAUSE OF ACTION INTERFERENCE WITH PLAINTIFFS' EXERCISE OF  
CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 51.7**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;

4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

### **THIRD CAUSE OF ACTION**

#### **INTERFERENCE WITH PLAINTIFFS' EXERCISE OF CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FOURTH CAUSE OF ACTION**

**VIOLATIONS OF CALIFORNIA EDUCATION CODE  
§§ 200, 201, 220 and 260, et seq.**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FIFTH CAUSE OF ACTION**

**ASSAULT AND BATTERY CONSTITUTING TORTURE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress

6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

#### **SIXTH CAUSE OF ACTION**

##### **ASSAULT AND BATTERY**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

#### **SEVENTH CAUSE OF ACTION**

##### **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

- 1 1. General damages for Pain and suffering in an amount to be determined according
- 2 to proof at trial;
- 3 2. Medical and future medical and related expenses in an amount to be determined
- 4 by proof at trial;
- 5 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 6 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 7 5. General damages for severe emotional and psychological distress
- 8 6. Pain and suffering;
- 9 7. Statutory damages;
- 10 8. Attorneys' fees;
- 11 9. Punitive and exemplary damages against all non-public entity Defendants
- 12 10. Costs of this action;
- 13 11. Such other and further relief as the Court deems just and proper.

16 **EIGHTH CAUSE OF ACTION**

17 **FALSE IMPRISONMENT, CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

- 18 1. General damages for Pain and suffering in an amount to be determined according
- 19 to proof at trial;
- 20 2. Medical and future medical and related expenses in an amount to be determined
- 21 by proof at trial;
- 22 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 23 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 24 5. General damages for severe emotional and psychological distress
- 25 6. Pain and suffering;
- 26
- 27
- 28

- 1 7. Statutory damages;
- 2 8. Attorneys' fees;
- 3 8. Punitive and exemplary damages against all non-public entity Defendants
- 4 9. Costs of this action;
- 5 10. Such other and further relief as the Court deems just and proper.

7 **NINTH CAUSE OF ACTION**

8 **NEGLIGENCE**

- 9 1. General damages for Pain and suffering in an amount to be determined according
- 10 to proof at trial;
- 11 2. Medical and future medical and related expenses in an amount to be determined
- 12 by proof at trial;
- 13 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 14 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 15 5. General damages for severe emotional and psychological distress;
- 16 6. Pain and suffering;
- 17 7. Statutory damages;
- 18 8. Attorneys' fees;
- 19 9. Costs of this action;
- 20 10. Such other and further relief as the Court deems just and proper.

23 **TENTH CAUSE OF ACTION**

24 **NEGLIGENT SUPERVISION**

- 25 General damages for Pain and suffering in an amount to be determined according to
- 26 proof at trial;
- 27
- 28

2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

#### **ELEVENTH CAUSE OF ACTION**

##### **NEGLIGENCE *PER SE***

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;

1 10. Such other and further relief as the Court deems just and proper.

2 **TWELFTH CAUSE OF ACTION**

3 Tortious Breach of the Covenant  
4 Of Good Faith and Fair Dealing

5 1. General damages for Pain and suffering in an amount to be determined  
6 according to proof at trial;

7 2. Medical and future medical and related expenses in an amount to be  
8 determined by proof at trial;

9 3. Past and future lost earnings in an amount to be determined by proof at trial;

10 4. Impairment of earning capacity for in an amount to be determined by proof at  
11 trial;

12 5. General damages for severe emotional and psychological distress

13 6. Pain and suffering;

14 7. Statutory damages;

15 8. Attorneys' fees;

16 9. Punitive and exemplary damages against all non-public entity Defendants

17 10. Costs of this action;

18 11. Such other and further relief as the Court deems just and proper.

19 **THIRTEENTH CAUSE OF ACTION**

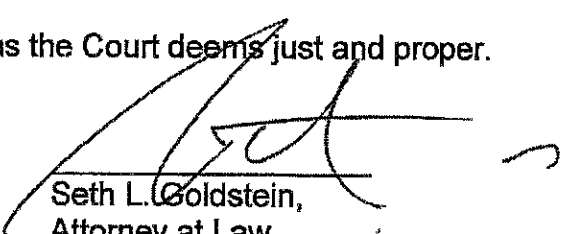
20 **FRAUD**

21 1. General damages for Pain and suffering in an amount to be determined  
22 according to proof at trial;

23 2. Medical and future medical and related expenses in an amount to be  
24 determined by proof at trial;

- 1 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 2 4. Impairment of earning capacity for in an amount to be determined by proof at
- 3 trial;
- 4 5. General damages for severe emotional and psychological distress
- 5 6. Pain and suffering;
- 6 7. Statutory damages;
- 7 8. Attorneys' fees;
- 8 9. Punitive and exemplary damages against all non-public entity Defendants
- 9 10. Costs of this action;
- 10 11. Such other and further relief as the Court deems just and proper.

11 Dated: February 23, 2021

12   
13 Seth L. Goldstein,  
14 Attorney at Law

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:** GUIDING HANDS SCHOOL, INC., (hereinafter "GHS", Staranne (AVISO AL DEMANDADO): MEYERS, "Star Williams", Cindy KELLER, David CHAMBERS, Susan Jane BATTLE, "Cory" Doe; Cory QUINCEY; Byma QUINCEY, Noel COLLIER, STATE OF CALIFORNIA DEPARTMENT OF EDUCATION (hereinafter CDE), PLACER COUNTY SELPA (hereinafter PLACER SELPA); Troy TICKLE, Kristi GREGERSON; Cara BRUCE; Ashley ROBB; Dolores ZUMBURY, Vince ANDERSON; POINT QUEST, Inc.; Nicole DOE; Jennifer DOE; ROCKLIN UNIFIED SCHOOL DISTRICT (hereinafter RUSD); Patricia DOE; David DOE; Amanda Doe; Noelle DOE; Bruce CHAPMAN, and HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEM, Inc., and Does 1-100

**YOU ARE BEING SUED BY PLAINTIFF:**

(LO ESTÁ DEMANDANDO EL DEMANDANTE): Louie Andreas Marques; Gloria V.M.; Thomas V.M.; and Jordan V.M.

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

EL DORADO CO. SUPERIOR CT.

FILED FEB 23 2021

BY Deputy

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court, County of Sacramento El Dorado  
720 9th Street 1354 Johnson Blvd.  
Sacramento, CA 95844 So. Lake Tahoe, CA 96150

CASE NUMBER:  
(Número del Caso):

PC20200429

BY FAX

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Seth L. Goldstein, SBN 176882  
Law Offices of Seth L. Goldstein  
Monterey, CA 93940

DATE: FEB 23 2021  
(Fecha)

Tania G. Ugrin-Capobianco

Clerk, by

(Secretario)

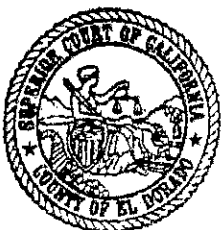
Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under:

☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):

Exhibit P

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Seth L. Goldstein Law Offices of Seth L. Goldstein 2100 Garden Rd., Ste. H-8 Monterey, CA 93940 TELEPHONE NO.: 831-372-9511 FAX NO. (Optional): 831-372-9611 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiffs		FOR COURT USE ONLY  EL DORADO CO. SUPERIOR CT.  FILED MAY 21 2021  BY Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF El Dorado STREET ADDRESS: 3321 Cameron Park Drive MAILING ADDRESS: CITY AND ZIP CODE: Cameron Park, CA 95682 BRANCH NAME: Civil		
PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M. DEFENDANT/RESPONDENT: Guiding Hands School, Inc. (hereinafter "GHS", Staranne MEYERS, et al		
CASE MANAGEMENT STATEMENT (Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)		
CASE NUMBER: PC20200429		
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: May 25, 2021 Time: 3:30 pm Dept.: 4 Div.: Room: Address of court (if different from the address above): <input checked="" type="checkbox"/> Notice of Intent to Appear by Telephone, by (name): Seth L. Goldstein		

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

- Party or parties (answer one):
  - ☒ This statement is submitted by party (name): All Plaintiffs, Marques and V.M.
  - ☐ This statement is submitted jointly by parties (names):
- Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)
  - The complaint was filed on (date): August 27, 2020
  - ☐ The cross-complaint, if any, was filed on (date):
- Service (to be answered by plaintiffs and cross-complainants only)
  - ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - ☒ The following parties named in the complaint or cross-complaint
    - ☒ have not been served (specify names and explain why not): We will be filing a Motion to Amend the complaint shortly. There have been some changes in facts since the last amended Complaint was filed.
    - ☐ have been served but have not appeared and have not been dismissed (specify names):
    - ☐ have had a default entered against them (specify names):
  - ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
- Description of case
  - Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):  
Violations of civil rights in educational setting, assault, fraud.

N-Court Fax Filing D11713 FAX

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M. DEFENDANT/RESPONDENT: Guiding Hands School, Inc.(hereinafter "GHS", Staranne MEYERS, et al)	CASE NUMBER: PC20200429
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4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

Plaintiffs Marques and V.M were disabled students at defendant, GHS. They were repeatedly assaulted as discipline differently than those without such a disability.

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☒ a jury trial ☐ a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a. ☒ The trial has been set for (date): Not as of this time  
b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (If not, explain):  
c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. ☒ days (specify number): 20  
b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney: Seth L. Goldstein  
b. Firm: Law Office of Seth L. Goldstein  
c. Address: 2100 Garden Rd., Ste. H-8, Monterey, CA 93940  
d. Telephone number: 831-372-9511  
e. E-mail address: slglawoffice@gmail.com  
f. Fax number: 831-372-9611  
g. Party represented: Plaintiffs  
☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative dispute resolution (ADR)

- a. ADR information package. Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. Referral to judicial arbitration or civil action mediation (if available).

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M., and Jordan V.M. DEFENDANT/RESPONDENT: Guiding Hands School, Inc.(hereinafter "GHS", Staranne MEYERS, et al	CASE NUMBER: PC20200429
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## 17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

## 18. Other issues

- ☒ The party or parties request that the following additional matters be considered or determined at the case management conference (specify): A mutual Defendant in the Federal case in this matter has been dismissed. A new family Plaintiff has come forward on similar facts. We have also discovered that the First Amended Complaint that was filed repeats itself in its entirety. We omitted Federal causes of action by mistake. A Motion to Amend is in the works.

## 19. Meet and confer

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain): Counsel for Rocklin Unified Schools.
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

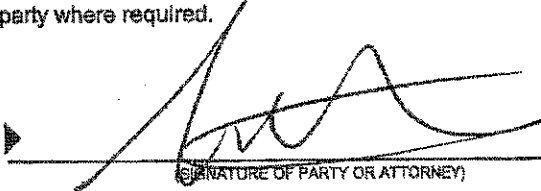
20. Total number of pages attached (if any): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: May 21, 2021

Seth L. Goldstein

(TYPE OR PRINT NAME)


  
(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

Attachment 13a

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El Dorado Superior Court  
People vs. Staranne Myers, et al.  
Case No. P19CRF0456-1

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

MINUTE ORDER

CASE NO: PC20200429      LOUIE ANDREAS MARQUES vs GUIDING HANDS SCHOOL  
DATE: 05/25/21      TIME: 3:30      DEPT: 4

CASE MANAGEMENT CONFERENCE RE: STATUS

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The Honorable Judge Pro Tem Jennifer Peterson presiding. Court Clerk:  
Wendy Warden. Court Reporter: None. Bailiff: None.

LOUIE ANDREAS MARQUES present by counsel Seth Goldstein via vCourt.

GLORIA V M, THOMAS V M, JORDAN V M, GUIDING HANDS SCHOOL INC,  
JENNIFER GALAS, STARANNE MEYERS, CINDY KELLER, DAVID CHAMBERS not  
present.

A Case Management/ADR Assessment Conference was held this date and,  
good cause therefore appearing, the following determinations were  
made:

Hearing continued to 09/28/21 at 3:30 in department 4

Notice to be given by Plaintiff.

1 Seth L. Goldstein, S.B.N. 176882  
2 slglawoffice@gmail.com  
3 2100 Garden Road, Suite H-8  
4 Monterey, California, 93940  
5 Telephone (831) 372 9511  
6 Fax (831) 372 9611  
7 Lead-Counsel for Plaintiffs

**FILED**

MAY 25 2021

EL DORADO CO. SUPERIOR COURT

BY *Nancy J. Starden*  
(DEPUTY CLERK)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF EL DORADO

VIA FACSIMILE

MARQUES, et al.,

Plaintiffs,

v.

GUIDING HANDS SCHOOL, Inc., et al.,

Defendants.

Case No. PC2020049

MOTION FOR ADMISSION  
PRO HAC VICE

DATE: N/A 7/16/21

TIME: N/A 1:30 PM

Judge: Michael J. McLaughlin /D4

FAC Filed: 02.23.21

Trial Date:

**MOTION FOR ADMISSION PRO HAC VICE**

23 Comes Now, Seth L. Goldstein, a member in good standing of The State Bar of  
24 California, hereby moves for the admission, pro hac vice, of Merit Bennett, Esquire ("Applicant")  
25 as co-counsel on behalf of the Plaintiffs in the above-captioned matter and in support thereof  
26 attaches hereto the Affidavit of the Applicant attesting to his fitness and experience.

1 DATED: May 25, 2021.

2 /s/ Seth Goldstein

Seth L. Goldstein, S.B.N. 176882

3 2100 Garden Rd., Ste. H-8

4 Monterey, CA 93940

5 Telephone: (831) 372-9511

6 Fax: (831) 372-9611

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Seth L. Goldstein, S.B.N. 176882  
slglawoffice@gmail.com  
2100 Garden Road, Suite H-8  
Monterey, California, 93940  
Telephone (831) 372 9511  
Fax (831) 372 9611  
Lead-Counsel for Plaintiffs

Merit Bennett, *Pro Hac Vice*  
mb@thebennettlawgroup.com  
460 St. Michael's Drive, Suite 703  
Santa Fe, New Mexico 87505  
Telephone: (505) 983-9834  
Fax: (505) 983-9836  
Co-Counsel for Plaintiffs

Mike Bomberger, S.B.N. 169866  
Estey and Bomberger  
2869 India Street  
San Diego, California 92103  
Telephone: (619) 295-0035  
Counsel for Plaintiff David Benson

**FILED**

MAY 25 2021

EL DORADO CO. SUPERIOR COURT

BY *Michael J. McLaughlin*  
(DEPUTY CLERK)

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

STACIA LANGLEY, et al.,

Plaintiffs,

v.

GUIDING HANDS SCHOOL, Inc., et al.,

Defendants.

Case No. PC2020049

APPLICATION IN SUPPORT OF MOTION  
FOR ADMISSION PRO HAC VICE

DATE: N/A 7/16/21

TIME: N/A 1:30pm

Judge: Michael J. McLaughlin /D4

FAC Filed: 02.23.21

Trial Date:

**APPLICATION IN SUPPORT OF MOTION  
FOR ADMISSION PRO HAC VICE**

I, Merit Bennett, Esquire, Law, hereby applies for admission pro hac vice for the purposes  
of litigating the captioned matter.

1 In compliance with Rule 9.40. of the California Rules of Court, I state the following:

2 I am a resident of Santa Fe County New Mexico.

3 My business address is:

4 The Bennett Law Group  
5 460 St. Michael's Drive, Suite 703  
6 Santa Fe, New Mexico 87505  
7 Ph: 505-983-9834 | 505-983-9836  
8 Email: [mb@thebennettlawgroup.com](mailto:mb@thebennettlawgroup.com)

9 The name and address of the registration or disciplinary agency of all state courts to which  
10 I have been admitted are as follows:

11 The State Bar of New Mexico NM Bar #4729, Admitted: 10/7/1986  
12 5121 Masthead Street North East  
13 Albuquerque, New Mexico 87109-4367  
14 Ph: 505-797- 6000

15 The Colorado Bar Association CO Bar #6850, Admitted: 10/6/1975  
16 1290 Broadway, Suite 1700  
17 Denver, Colorado 80203  
18 Ph: 303-860 -1115

19 The Hawaii State Bar Association HI Bar #7407, Admitted 09/21/2000  
20 Alakea Corporate Tower  
21 1100 Alakea Street, Suite 1000  
22 Honolulu, Hawaii 96813  
23 Ph: 808- 537-1868

24 I am eligible to practice and I am currently in good standing in all of the above-referenced  
25 courts.

26 I am not nor have I ever been on suspension or disbarred in any court.

27 I have not concurrently or within the two years preceding this application made a pro hac  
28 vice application to this court.

I designate the following permanent members of this bar, who are in good standing, to act  
as local counsel in this matter:

Seth L. Goldstein, S.B.N. 176882  
2100 Garden Rd., Ste. H-8

1 Monterey, CA 93940  
2 Telephone: (831) 372-9511  
3 Fax: (831) 372-9611

4 I will be associating with Mr. Seth Goldstein and Mr. Mike bomberger, whose office  
5 addresses are listed in the caption of this application and who are admitted to practice before this  
6 court.

7 I affirm, under the penalty of perjury, that the foregoing is true and correct, executed May  
8 25, 2021, in Santa Fe, New Mexico.

9 Respectfully submitted:

10 

11 Merit Bennett  
12 The Bennett Law Group  
13 460 St. Michaels Dr., #703  
14 Santa Fe, NM 87505  
15 Telephone: (505) 983-9834  
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## SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF EL DORADO

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, and Address): SETH L. GOLDSTEIN, SBN 176882 2100 Garden Rd., Ste. H-8 Monterey, CA 93940 TELEPHONE NO.: 831-372-9511 FAX NO.: 831-372-9611 EMAIL ADDRESS:		FOR COURT USE ONLY  <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center;">MAY 26 2021</div> EL DORADO CO. SUPERIOR COURT BY <i>[Signature]</i> (DEPUTY CLERK)	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO <input type="checkbox"/> 3321 Cameron Park Drive <input checked="" type="checkbox"/> 1354 Johnson Blvd. Cameron Park, CA 95682      South Lake Tahoe, CA 96150			
PETITIONER: Luis Marques, et al. RESPONDENT: Guiding Hands School, Inc., et al.		CASE NUMBER: PC20200429	
REQUEST FOR TELEPHONIC APPEARANCE			
TYPE OF HEARING:		DATE: 5/25/21      TIME: 3:30 pm      DEPT: 4	

- I am the ☐ petitioner ☒ petitioner's counsel ☐ respondent ☐ respondent's counsel ☐ Other: \_\_\_\_\_
- I request the court to allow me to appear from the following telephone number: (831 ) 372-9511
- I request to appear telephonically for the following reason: \_\_\_\_\_  
 It would be a hardship to have to travel to South Lake Tahoe to attend the hearing from my office located in Monterey County
- I have filed this request at least twelve (12) court days prior to the hearing and will serve all parties/attorneys with this form within one (1) court day after filing the form.
- I understand that the court, in its discretion, may decide to terminate the telephone appearance if it determines during the hearing that I am not available at the calendar call or delay due to disruption, noise, misconduct, a communication problem, a technical problem, or other issue.
- I understand the court may decide at any time to require a personal appearance and continue the hearing.
- I assume the risks of cost, time, delay, repeated telephone calls, technical failure, a wrong number, and/or other issues that may arise out of this telephone appearance.
- I understand that except as provided in California Rules of Court, rule 1.150, court proceedings shall not be photographed, recorded, or broadcast.

I have read the advisements of this form and Local Rules 7.02.00, and I understand that the terms apply to me.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct

DATE: May 25, 2021

Seth L. Goldstein

PRINTED NAME

SIGNATURE

FOR COURT USE ONLY  By Judicial Officer: The request is <input checked="" type="checkbox"/> GRANTED <input type="checkbox"/> DENIED Date: 5/26/21 <div style="text-align: right;"> <i>[Signature]</i>          Michael J. McLaughlin          Judicial Officer       </div>	
---	--

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF EL DORADO

[ ] 2850 FAIRLANE COURT  
Placerville, CA 95667  
(530) 621-7470  
[ ] 495 Main Street  
Placerville, CA 95667  
(530) 621-6726

[X] 1354 JOHNSON BLVD.  
South Lake Tahoe, CA 96150  
(530) 573-3069  
[ ] 3321 Cameron Park Dr.  
Cameron Park, CA 95682  
(530) 621-5867

05/26/21

Case PC20200429

Dear *Seth Goldstein,*

RE: NOTICE TELEPHONIC APPEARANCE IS GRANTED

The court has received your request for a telephonic appearance. Due to the distance from where you reside and the location of the court, the request is granted.

Telephonic court appearances are provided through the court. To set up your appearance please go to the court's website at <http://www.eldoradocourt.org/online services/vcourt.html>. If you cannot afford the fee you may request a fee waiver which you must submit to the court at least 5 days prior to the hearing.

Sincerely,

**W. Warden**

Deputy Clerk

Court Website: <http://www.eldoradocourt.org/>

TAG

Revised 06/14/2010

**Exhibit F**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, and Address): Merit Bennett, Pro Hac Vice, 460 St. Michael's Drive, Suite 703, Santa Fe, New Mexico 87505 TELEPHONE NO.: FAX NO.: 505-983-9836 EMAIL ADDRESS:	FOR COURT USE ONLY <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center;">JUL 15 2021</div> EL DORADO CO., SUPERIOR COURT BY <i>Shirley J. Warden</i> (DEPUTY CLERK)
SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO MAILING ADDRESS: 3321 Cameron Park Drive CITY AND ZIP CODE: Cameron Park, California 95682	
PETITIONER/PLAINTIFF: Marques, et al. RESPONDENT/DEFENDANT: Guiding Hands School, Inc., et al.	CASE NUMBER: PC20200429
<b>APPLICATION FOR VIDEOCONFERENCE APPEARANCE AND ORDER</b>	

1. Person(s) requesting to appear by videoconference is/are:

<input type="checkbox"/> Petitioner/Plaintiff	Name:	Email:	Telephone:
<input type="checkbox"/> Respondent/Defendant	Name:	Email:	Telephone:
Counsel for (select) <input checked="" type="checkbox"/> Petitioner/Plaintiff or <input type="checkbox"/> Respondent/Defendant	Name: Merit Bennett	Email: mb@thebennettlawgroup.com	Telephone: 505-9833-9834
<input type="checkbox"/> Other	Name:	Email:	Telephone:

2. For Counsel, if requesting on client's behalf:

- ☐ My client has consented and authorized me to make this request on their behalf.
- ☒ I confirm that a means to communicate privately and confidentially has been established and reviewed by both the attorney and party if both are attending the conference, hearing or proceeding remotely.

3. Certain case types are permitted to be heard by videoconferencing. The conference, hearing or proceeding is for (describe):  
Pro Hac Vice admission

4. Videoconference appearance is requested for following reason(s):

Out of state attorney

5. The matter is set on (date): July 16, 2021 at (time): 1:30 pm in Department: \_\_\_\_\_

6. Notice of this request was provided to (attach a page with additional names to this form if needed):

Name	Role	How Notice Provided	Date Noticed

7. By signing below, I agree to the following:

- I understand and agree that when appearing by videoconference, I may not receive assistance from anyone other than counsel, an interpreter or an individual appointed by or approved by the Court.
- I understand and agree that appearance by videoconference is the same as in-person appearance and any actions that occur in the hearing carry the same authority as if all individuals were physically in the courtroom.
- I understand if I am not connected at the time the case is called, the Court may consider it a failure to appear and the matter may be dropped from calendar.
- I understand that the court, in its discretion, may decide to terminate the videoconference appearance if there is a delay due to disruption, noise, misconduct, a communication problem, a technical problem, other issue and/or in the interest of justice.
- I understand that a failure to appear or termination of the videoconference appearance may result in the issuance of a warrant, a requirement that I appear in-person and/or a continuance of the conference, hearing or proceeding.
- I understand the Court may decide, at any time, to require a personal appearance and/or a continuance of the conference, hearing or proceeding.
- I understand that except as provided in California Rule of Court, rule 1.150, court proceedings shall not be photographed, recorded or broadcast. Violators may be cited for contempt of court, or monetary sanctions may be imposed.

Dated: July 15, 2021

Merit Bennett

Printed Name

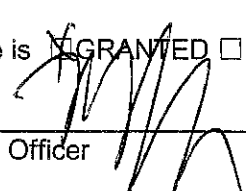


Signature

**FOR COURT USE ONLY**

By Judicial Officer: The request for a videoconference appearance is ☒ GRANTED ☐ DENIED

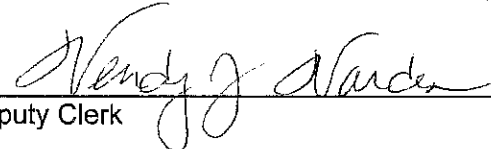
Dated: 7/15/21

  
Judicial Officer

Michael J. McLaughlin

Notice of this order along with the videoconference information was provided by email to the person(s) listed in item 1 on:

Dated: 7/15/21

  
Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, and Address): Seth L. Goldstein SBN#176882 2100 Garden Road, Suite H-8 Monterey, CA 93940 TELEPHONE NO.: 831-372-9511 FAX NO.: 831-372-9811 EMAIL ADDRESS: <u>slglawoffice@gmail.com</u>		FOR COURT USE ONLY <b>FILED</b> JUL 15 2021 EL DORADO CO. SUPERIOR COURT BY <u>Nancy J. Ward</u> (DEPUTY CLERK)
SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO MAILING ADDRESS: 1354 Johnson Blvd. CITY AND ZIP CODE: South Lake Tahoe 96150		CASE NUMBER: PC20200429
PETITIONER/PLAINTIFF: LOUIE ANDREAS MARQUES RESPONDENT/DEFENDANT: GUIDING HANDS SCHOOL		
<b>APPLICATION FOR VIDEOCONFERENCE APPEARANCE AND ORDER</b>		

1. Person(s) requesting to appear by videoconference is/are:

<input type="checkbox"/> Petitioner/Plaintiff	Name:	Email:	Telephone:
<input type="checkbox"/> Respondent/Defendant	Name:	Email:	Telephone:
Counsel for (select) <input checked="" type="checkbox"/> Petitioner/Plaintiff or <input type="checkbox"/> Respondent/Defendant	Name: Louie Andreas Marques	Email: slglawoffice@gmail.com	Telephone: 831-372-9511
<input type="checkbox"/> Other	Name:	Email:	Telephone:

2. For Counsel, if requesting on client's behalf:

☒ My client has consented and authorized me to make this request on their behalf.

☒ I confirm that a means to communicate privately and confidentially has been established and reviewed by both the attorney and party if both are attending the conference, hearing or proceeding remotely.

3. Certain case types are permitted to be heard by videoconferencing. The conference, hearing or proceeding is for (describe):

MOTION RE: FOR ADMISSION PRO HAC VICE

4. Videoconference appearance is requested for following reason(s):

I am not local, I live over 4 hours away and was unaware hearings went back to in person.

5. The matter is set on (date): 7/16/21 at (time): 1:30pm in Department: 4

6. Notice of this request was provided to (attach a page with additional names to this form if needed):

Name	Role	How Notice Provided	Date Noticed

7. By signing below, I agree to the following:

- I understand and agree that when appearing by videoconference, I may not receive assistance from anyone other than counsel, an interpreter or an individual appointed by or approved by the Court.
- I understand and agree that appearance by videoconference is the same as in-person appearance and any actions that occur in the hearing carry the same authority as if all individuals were physically in the courtroom.
- I understand if I am not connected at the time the case is called, the Court may consider it a failure to appear and the matter may be dropped from calendar.
- I understand that the court, in its discretion, may decide to terminate the videoconference appearance if there is a delay due to disruption, noise, misconduct, a communication problem, a technical problem, other issue and/or in the interest of justice.
- I understand that a failure to appear or termination of the videoconference appearance may result in the issuance of a warrant, a requirement that I appear in-person and/or a continuance of the conference, hearing or proceeding.
- I understand the Court may decide, at any time, to require a personal appearance and/or a continuance of the conference, hearing or proceeding.
- I understand that except as provided in California Rule of Court, rule 1.150, court proceedings shall not be photographed, recorded or broadcast. Violators may be cited for contempt of court, or monetary sanctions may be imposed.

Dated: 7/15/21

SETH GOWDSION

Printed Name

[Signature]

Signature

**FOR COURT USE ONLY**

By Judicial Officer: The request for a videoconference appearance is ☒ GRANTED ☐ DENIED

Dated: 7/15/21

[Signature]  
Judicial Officer

Michael J. McLaughlin

Notice of this order along with the videoconference information was provided by email to the person(s) listed in item 1 on:

Dated: 7/15/21

[Signature]  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

MINUTE ORDER

CASE NO: PC20200429  
DATE: 07/16/21

LOUIE ANDREAS MARQUES vs GUIDING HANDS SCHOOL  
TIME: 1:30 DEPT: 4

HEARING: MOTION RE: FOR ADMISSION PRO HAC VICE BY MERIT BENNETT  
FILED BY LOUIE ANDREAS MARQUES, GLORIA V M, THOMAS V M, JORDAN V  
M

---

Honorable Judge MICHAEL J. MCLAUGHLIN presiding. Clerk: Wendy Warden.  
Court Reporter: LISA MENDEL CSR 14353. Bailiff: C. Bradford

LOUIE ANDREAS MARQUES, GLORIA V M, THOMAS V M, JORDAN V M present by  
counsel Seth Goldstein via Zoom.

Also present: Merit Bennett.

Case is regularly called for hearing.

THE COURT ORDERS:

Hearing continued to 07/23/21 at 1:30 in department 4

Complaint has not been served, so the issue of serving motion is moot.

1. MARQUES, ET AL. v. GUIDING HANDS SCHOOL, ET AL., PC20200429

**Application to Appear *Pro Hac Vice***

There is no proof of service in the court's file establishing that all parties who have appeared in this action and that the San Francisco office of the State Bar of California were served with the notice of hearing and a copy of the application. (Cal. Rules of Ct., rule 9.40(c)(1).) Moreover, there is no evidence provided establishing that the applicant paid the \$50.00 fee to the State Bar with his copy of the application and the notice of hearing that is served on the State Bar. (*Id.*, subd. (e).)

**TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 1:30 P.M.,  
FRIDAY, JULY 16, 2021, IN DEPARTMENT FOUR.**

1 Seth L. Goldstein, S.B.N. 176882  
2 2100 Garden Road, Suite H-8  
3 Monterey, California, 93940  
4 Telephone (831) 372 9511  
5 Fax (831) 372 9611

6  
7 Lead-Counsel for Plaintiffs

**FILED**

SEP 20 2021

EL DORADO CO. SUPERIOR COURT

BY Shady J. Warden  
(DEPUTY CLERK)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO

In the Matter of:

Case No.: PC202429

Louie Andreas MARQUES, Gloria V.M.,  
Thomas V.M., and Jordan V.M.,

Plaintiffs

vs

GUIDING HANDS SCHOOL, Inc.(hereinafter  
"GHS"), Staranne MEYERS, Cindy KELLER,  
David CHAMBERS, STATE OF  
CALIFORNIA, DEPARTMENT OF  
EDUCATION, PLACER COUNTY SELPA,  
Cara BRUCE, Ashley ROB, Dolores  
ZUMBURY, Vince ANDERSON, POINT  
QUEST, Inc., ROCKLIN UNIFIED SCHOOL  
DISTRICT, Noel COLLIER, Patricia DOE,  
David DOE, Amanda DOE, and  
Noelle DOE,

Defendants.

PLAINTIFF'S NOTICE OF  
MOTION AND MOTION FOR  
LEAVE TO FILE SECOND  
AMENDED COMPLAINT;  
MEMORANDUM OF POINTS  
AND AUTHORITIES

Judge: Michael J. McLaughlin

Date: 10/22/21

Time: 1:30pm

Dept. 4

Original Complaint Filed: 8/27/20

TO THIS HONORABLE COURT:

PLEASE TAKE NOTICE that, on 10/22/21, at 1:30pm or soon thereafter as the  
matter can be heard, in Department 4, of this Court, located at 1254 Johnson Blvd, South Lake  
Tahoe, California 95150, Plaintiffs', Louie Andreas MARQUES, Gloria V.M., Thomas V.M.  
and Jordan V.M., by and through their attorneys, will move this Court for an ORDER granting

CMS


StExhibit

1 leave to file a Second Amended Complaint.

2 As discussed below, this motion is made on the grounds that good cause exists for  
3 granting Plaintiffs' leave to amend. Moreover, granting a leave to amend will not prejudice the  
4 rights of any of the Defendants given the stage of the litigation. The COMPLAINT HAS NOT  
5 YET BEEN SERVED SO NO MEET-AND-CONFER HAS OCCURRED AND NO NOTICE  
6 TO A DEFENDANT IS REQUIRED.

7  
8 This motion is based on this Notice of Motion and Motion for Leave to File Second  
9 Amended Complain and the accompanying Memorandum of Points and Authorities, on the  
10 papers and records on file herein, and on such oral and documentary evidence as may be  
11 presented at the hearing of the motion.  
12

13  
14 Dated: Sept. 20, 2021

15   
16 Seth L. Goldstein,  
17 Lead Counsel for Plaintiffs  
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**I**  
**INTRODUCTION**

Plaintiff's, Louie Andreas MARQUES, Gloria V.M., Thomas V.M. and Jordan V.M., move to amend their Complaint and file a Second Amended Complaint (hereinafter "SAC"). The rights of Plaintiffs' have been impacted by the conduct of the defendants and the SAC seeks to include all Defendant's that Plaintiffs' recently became aware of and to include all available legal and equitable claims. There is no prejudice to the defendants to allow Plaintiffs' to amend their complaint because counsel for GHS and Rocklin Unified Schools have already been involved in litigating a companion case in Federal Court. Counsel for GHS is the same firm representing POINT QUEST.

The SAC includes the following changes: (1) According to the ruling in the companion Federal Court case it was not possible, without further discovery, to gain personal jurisdiction over Bruce Chapman. (2) Additional employee Defendants have been identified and should be added to this lawsuit. (3) Counsel for Defendant, Rocklin Unified School District has informally received the First Amended Complaint and pointed out an errors in the pleadings that by amended would avoid a Motion to Strike. (4) There were errors in pleading omitting the federal claims, listing defendants in the body of the complaint, but, not the caption and other errors that made the complaint confusing.


By this motion Plaintiffs' request that the Court order the attached SAC to be filed as proposed. The amendments are necessary in order to assert all claims on behalf of all Plaintiffs' and to correct all errors in the First Amended Complaint.

1 Defendants are not prejudiced by this amendment and the liberal policy in favor of  
2 amendments compels the granting of this motion.  
3

4  
5 **II. DECLARATION OF COUNSEL**

- 6 1. I am co- counsel for Plaintiffs.
- 7 2. As stated above, the companion case in Federal Court has a ruling that nullifies some of  
8 the causes of action pled in the First Amended Complaint.
- 9 3. In the creation of the First Amended Complaint (FAC), I accidentally omitted all federal  
10 causes of action and did not discover this until the document had been filed.
- 11 4. Opposing counsel for the Rocklin Schools has been aware of this matter despite the fact it  
12 was not served upon her client and pointed out an error that would have been subject to a  
13 motion to strike and required amendment. This amendment addresses that concern.
- 14 5. In the interim between the time the FAC was filed and this date, another child and his  
15 family came forward seeking to sue Guiding Hands School.
- 16 6. Because this case involves disabled young children, I sought to determine if it was  
17 possible to join that family to this case.
- 18 7. The investigation took longer than I had anticipated and we are now ready to proceed  
19 without that family.
- 20
- 21

22 I declare, under the penalty of perjury, pursuant to the laws of the State of California, that  
23 the foregoing is true and correct, executed this 20th, day of September, 2021, at  
24 Monterey, California.

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27 Seth L. Goldstein  
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### III. MEMORANDUM OF POINTS AND AUTHORITIES

A. It Is In Furtherance of Justice to Allow Plaintiffs' to Amend Their Complaint

This Court "may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding." CCP §473. It is established judicial policy to resolve all disputes between the parties on their merits, and to liberally allow amendments to the pleadings to put all disputes at issue at the time of the trial. See, *Vogel v. Thrifty Drug Co.*, (1954) 43 Cal.2d 184, 188 ("It is a basic rule of pleading in this State that amendments shall be liberally allowed so that all issues material to the just and complete disposition of a cause may be expeditiously litigated"); See also, *Wilson v. Turner Resilient Floors* (1949) 89 Cal.App.2d 589; *In re Herbst's Estate* (1938) 26 Cal.App.2d 249,

"While a motion to permit an amendment to a pleading to be filed is one addressed to the discretion of the Court, the exercise of this discretion must be sound and reasonable and not arbitrary or capricious. And it is a rare case in which 'a court will be justified in refusing a party leave to amend his pleadings so that he may properly present his case'. If the Motion to amend is timely made and the granting of the motion will not prejudice the opposing party, it is error to refuse permission to amend and where the refusal also results in a party being deprived of the right to assert a meritorious cause of action or a meritorious defense, it is not only error but an abuse of discretions."

*California Cas. Gen. Ins. Co. v. Superior Court* (1985) 173 Cal.App.3d 274, 278 (citations omitted).

The judicial policy favoring amendment in the interests of justice is so strong that denial is rarely justified. This motion is timely made since it is made before the defendants have been served with the Complaint and before the Court has set a date for trial.

This Court may in its sound discretion allow Plaintiffs' to amend their complaint, regardless of the state of litigation. See *Hirsa v. Superior Ct.* (1981) 118 Cal.App.3d 486, 488-489 ("Trial Courts are vested with the discretion to allow amendments to


1 pleadings in furtherance of justice...that trial courts are to liberally permit such  
2 amendments, at *any* stage of the proceeding, has been established policy of this  
3 state...resting on the fundamental policy that cases should be decided on their merits.")  
4 Given the sate of this case, no party in interest will be prejudiced by Plaintiff's  
5 amendment to their complaint. Because granting the motion for leave to file Plaintiffs'  
6 Second Amended Complaint will not prejudice any party to this action and leave to  
7 amend will further the interests of justice, this Court should grant the Motion. *See,*  
8 *California Cas. Gen. Ins. Co. Supra.*  
9  
10

11 III.

12 CONCLUSION

13 WHEREFORE, Plaintiffs' respectfully request that this Court grant their motion for leave  
14 to file a Second Amended Complaint in the form submitted with their motion.  
15  
16

17  
18 Dated: Sept. 20, 2021

19   
20 Seth L. Goldstein,  
21 Lead Attorney for Plaintiffs'  
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**Unified Schools and Placer County SELPA** are business establishments within the meaning of the Unruh Civil Rights Act.

15. **Defendant California Department of Education (CDE)**, a department of the State of California, presently, was, and at all times relevant to this Complaint, responsible for inspecting and certifying Non-Public Schools such as GHS and POINT QUEST. It is a business establishment within the meaning of the Unruh Civil Rights Act.

16. **Defendant Handle with Care Behavior Management System, Inc.** Defendant, HWC was a corporation organized under the laws of the State of New York, and doing business in California, marketing a system of restraint and training California teachers to restrain special needs children in prone and other types of restraints.

17. At all times herein mentioned, Bruce Chapman (hereinafter "CHAPMAN"), was the agent and employee, owner, president and founder of HWC, who developed a patented restraint system marketed through HWC to schools in California for use on "behaviorally challenged" children in California schools, including GHS, which lead to the injuries to the student plaintiffs.

18. At all times herein mentioned, defendant, HWC was a corporation organized under the laws of the State of New York, and doing business in California, marketing a system of restraint and training California teachers to restrain special needs children in prone and other types of restraints.

#### **JURISDICTION AND VENUE**

19. Gloria, Thomas, and Jordan V.M. have complied with the Tort Claims filing against CDE, ROCKLIN UNIFIED SCHOOL DISTRICT and PLACER COUNTY SELPA on March 24 , 2019 for injuries and claims herein stated against said public entities. True and correct copies of said claims are attached as **Exhibit A**.

20. Plaintiffs sue all Defendants in El Dorado County because all of the tortious acts

occurred at 4900 Windplay Dr., El Dorado Hills, El Dorado County, California.

1 21. Plaintiffs are informed and believe that each of the Local Educational Agency  
2 (LEA) and NPS Defendants is the agent, ostensible agent, alter ego, master, servant,  
3 trustor, trustee, employer, employee, representative, affiliate, related entity, partner,  
4 and/or associate, or such similar capacity, of each of the other Defendants, and at all  
5 times acting and performing, or failing to act or perform, within the course and scope  
6 of each similar aforementioned capacities, and with the authorization, consent,  
7 permission or ratification of each of the other Defendants, and is personally responsible  
8 in some manner for the acts and omissions of the other Defendants in proximately  
9 causing the violations and damages complained of herein, and have participated,  
10 directed, and have ostensibly and/or directly approved or ratified each of the acts or  
11 omissions of each of the other Defendants, as herein described.  
12

13 **GHS EMPLOYEES:**  
14

15 22. At all times herein mentioned, as to Plaintiff MARQUES defendants Staranne  
16 Meyers (hereinafter "MEYERS") was the principal and member of the board of GHS,  
17 Cindy Keller (hereinafter "KELLER") was the executive director of GHS, Phyllis  
18 RAMSEY (hereinafter "RAMSEY") was an administrator for GHS and DOE defendants  
19 were officers, directors, and administrators of defendant GHS, all of whom have  
20 authority and control over GHS's programs, and facilities, including policies, practices,  
21 procedures, programs, activities, services, training, staff; and all of whom have direct  
22 responsibility for ensuring the safety and well-being of their students, and for ensuring  
23 compliance with state and federal laws. MEYERS, KELLER, RAMSEY and DOE  
24 defendants allowed and encouraged staff at GHS to intentionally and unlawfully assault  
25 and batter Plaintiff MARQUES.  
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27 23. At all times herein mentioned, as to Plaintiffs Thomas and Jordan V.M.,  
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**NO PROOF OF SERVICE AS THE DEFENDANTS  
HAVE NOT YET BEEN SERVED WITH A COMPLAINT**

1 **Seth L. Goldstein, S.B.N. 176882**  
2 **2100 Garden Road, Suite H-8**  
3 **Monterey, California, 93940**  
4 **Telephone (831) 372 9511**  
5 **Fax (831) 372 9611**

6 **Lead-Counsel for Plaintiffs**

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **COUNTY OF EL DORADO**

9 In the Matter of:

10 \_\_\_\_\_ )  
11 **Louie Andreas MARQUES, Gloria V.M.,** )  
12 **Thomas V.M., and Jordan V.M.,** )

13 **Plaintiffs** )

14 **vs** )

15 **GUIDING HANDS SCHOOL,** )  
16 **Inc.(hereinafter "GHS"), , Staranne** )  
17 **MEYERS, Cindy KELLER, David** )  
18 **CHAMBERS, Noel COLLIER, Patricia** )  
19 **DOE, David DOE, Amanda DOE, Cara** )  
20 **BRUCE, Ashley ROB, Dolores ZUMBURY,** )  
21 **Vince ANDERSON and Noelle DOE; STATE** )  
22 **OF CALIFORNIA, DEPARTMENT OF** )  
23 **EDUCATION; PLACER COUNTY SELPA,** )  
24 **Kristi GREGERSEN, Troy TICKLE, POINT** )  
25 **QUEST, Inc., Bill TOLLESTRUP, Bill** )  
26 **WEBBER, Nicole DOE, Jennifer DOE;** )  
27 **ROCKLIN UNIFIED SCHOOL DISTRICT,** )  
28 **Kristain ROYER, Beth DAVIDSON;** )  
**HANDLE WITH CARE BEHAVIOR**  
**MANAGEMENT SYSTEMS, INC.**

\_\_\_\_\_ )  
**Defendants.** )

**I. PARTIES**

**Plaintiffs**

1. Plaintiff Louie MARQUES (legal name Louie Andreas MARQUES, hereinafter "MARQUES"), who lives in Sacramento was, at all relevant times herein, a minor

**Exhibit F**

1 child diagnosed as then having Oppositional Defiant Disorder and ADHD. He  
2 was a person with a disability as defined by the Unruh Act, with a mental disability  
3 as defined in Sections 12926 and 12926.1 of the Government Code.  
4

5 2. At the relevant times, MARQUES had an IEP that identified predictable  
6 behaviors as disrespecting authority, tantrums, disruption of others, yelling, swearing,  
7 and kicking.

8 3. The BIP mandated that staff use verbal prompts, proximity changes, and  
9 modeling behaviors sought to be learned.

10 4. **Plaintiffs Thomas and Jordan V.M.** were children with disabilities as defined  
11 in 20 USD 1401(3), and were persons who under the Unruh Act, have a mental  
12 disability as defined in Sections 12926 and 12926.1 of the Government Code.  
13

14 5. Thomas V.M. had an IEP that identified kicking, biting, throwing objects, refusal  
15 to participate in activity or follow staff directives, yelling, screaming, grunting or crying  
16 with tears as predictable behaviors.

17 6. His less restrictive corrective measures are identified as monitoring for safety,  
18 one step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt  
19 approach" and reapplication of original direction and follow through with original  
20 instruction.  
21

22 7. Jordan V.M. had an IEP that identified non-compliance, physical aggression  
23 (kicking, hitting, pushing, biting, and spitting on staff and peers), yelling/screaming,  
24 inappropriate gestures and other behavior described as eating crayons and spitting  
25 water as predictable behaviors.  
26

27 8. His less restrictive corrective measures are identified as monitoring for safety,  
28 one step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt

approach" and reapplication of original direction and follow through with original instruction.

9. **Plaintiff Gloria V.M.** is the adoptive mother of Thomas and Jordan V.M. and is their Guardian Ad Litem.

#### DEFENDANTS

10. **Defendants Guiding Hands School Inc., and Point Quest Inc.** 4900 Windplay Dr., El Dorado Hills, California, located on the same premises having allegedly bought out GHS are non-public schools (hereinafter NPS) incorporated under the laws of the State of California as for-profit corporations and approved by the State of California as institutions providing for children with disabilities.

11. At all times relevant to this Complaint, GHS was a business establishment within the meaning of the Unruh Civil Rights Act. Defendant GHS was an independent contractor with Elk Grove Unified Schools, pursuant to a written contract to perform educational services for Plaintiffs MARQUES, Thomas and Jordan V.M.

12. Presently, and at all times relevant to this Complaint, POINT QUEST is a business establishment within the meaning of the Unruh Civil Rights Act. Defendant POINT QUEST is an independent contractor with Rocklin Unified Schools and Placer County SELPA, pursuant to a written contract to perform educational services for Plaintiff Jordan V.M.

13. At all times relevant to this Complaint, Defendant Noel COLLIER, Patricia DOE, David DOE, Amanda DOE, and Noelle DOE were employees of POINT QUEST and were either directly involved in restraining Plaintiff Jordan V.M. or were immediately present on the premises during the restraints and failed to intercede to protect the plaintiffs.

14. Presently, and at all times relevant to this Complaint, **Defendants Rocklin**

defendants MEYERS was the principal and member of the board of GHS, KELLER was the executive director of GHS, RAMSEY was an administrator for GHS, CHRISTENSEN was an administrator at GHS, NARAN was an administrator at GHS, and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs, activities, services, training, staff; and all of whom have direct responsibility for ensuring the safety and well-being of their students, and for ensuring compliance with state and federal laws. MEYERS, KELLER, CHRISTENSEN, RAMSEY, NARAN, Noel COLLIER (Special Education Teacher), and unknown DOE defendants allowed and encouraged staff at GHS to intentionally and unlawfully assault Plaintiffs Thomas and Jordan V.M.

24. At all times herein mentioned, as to Plaintiff MARQUES defendants Delores ZOMBURY (hereinafter "ZOMBURY"), Vince ANDERSON (hereinafter "ANDERSON"), Ashley ROBB (hereinafter "ROBB"), Cary BRUCE (hereinafter "BRUCE"), Cory QUINCEY (hereinafter "CORY"), Bryna QUINCEY (Hereinafter "BRYNA"), David Chambers (hereinafter "CHAMBERS") Kera BRUCE (Hereinafter "BRUCE", and DOE defendants were employed as teachers, and aides at GHS, who intentionally and unlawfully assaulted MARQUES and unlawfully inflicted corporal punishment upon him. They had authority and control of the classroom, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of GHS.

25. The names and capacities, whether individual, corporate, otherwise, sued herein as DOES 1-100, inclusive, are presently unknown, and Plaintiff will amend the Complaint to insert them when ascertained.

#### POINT QUEST EMPLOYEES

26. Bill Tollestrup, Interim Director of El Dorado Hills, Bill Weber, Director of El Dorado Hills, Nicole DOE, Jennifer DOE and DOE defendants were employed as administrators, teachers, and aides at POINT QUEST, who intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and control of the classroom, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of POINT QUEST.

#### **ROCKLIN UNIFIED SCHOOL EMPLOYEES**

27. Kristain ROYER, Program Specialist, Beth DAVIDSON, Assistant Director of Special Education, and DOE defendants were employed as administrators at RUSD, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

#### **PLACER COUNTY SELPA EMPLOYEES**

28. Kristi Gregersen, Program Specialist, Troy TICKLE, Director, Placer County SELPA, and DOE defendants were employed as administrators at Placer County SELPA, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

29. Plaintiffs MARQUES, Thomas, and Jordan V.M. were placed at GHS and POINT QUEST by their respective school districts after representations were made to the

minors' parents about both schools special skills, facilities and safe environment appropriate for their children. The placement was pursuant to each student's Individual Education Plan (IEP), as a result of their diagnosis as children with disabilities, because the school districts themselves determined they were unable to provide a Free Appropriate Public Education.

30. Defendants GHS, POINT QUEST, ROCKLIN UNIFIED SCHOOLS AND PLACER COUNTY SELPA have failed to adequately supervise their employees that resulted in the foreseeable physical harm to Plaintiffs. Defendants had a statutory duty to ensure that staff who came into contact with Plaintiffs would provide an environment free of abuse and neglect.

31. California law, including Cal Const, Art. I § 28, has long imposed on school authorities a duty to supervise at all times the conduct of children on school grounds and to enforce those rules and regulations necessary for their protection. Defendants also had a duty to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting intentionally or negligently.

32. Defendants have violated their statutory duties to Plaintiff, including their supervisory duties created under California Education Code sections 44807 and 44808.

33. California Penal Code section 11166 which required them to report any knowledge of a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect to the agency immediately or as soon as is practically possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written follow up report thereof within 36 hours of receiving the information concerning the incident.

34. Defendants have violated their statutory duties to Plaintiffs Thomas and Jordan V.M., including multiple violations of California Education Code sections 56521.1 and

56521.2 (and its predecessor legislation) that, in pertinent parts, suggest alternative interventions and/or prohibits the use of any interventions that:

1) cause physical pain; 2) simultaneously immobilize all four extremities, 3) apply an amount of force that exceeds that which is reasonable and necessary under the circumstances, or 4) subjects the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.

35. Defendants have violated their statutory duty under California Penal Code section 11165.4 which prohibits "unlawful corporal punishment or injury" against a child, defined as "any cruel or inhuman corporal punishment or injury resulting in a traumatic condition."

36. Defendants GHS and POINT QUEST violated its statutory duty under California Education Code section 260 by failing to enact an adequate formal or informal policy to ensure that GHS and POINT QUEST provided a learning environment free from discrimination based on the characteristics provided in California Education Code section 220, specifically disability.

37. GHS was closed in 2018 after the State of California revoked their license to operate following the death of student Max Benson who was subjected to a restraint that killed him.

38. After GHS was closed it was, allegedly, sold to POINT QUEST, and Jordan V.M. then attended Defendant POINT QUEST.

39. When POINT QUEST took over GHS facilities and educational duties, Gloria V.M. was assured by the Rocklin Unified School staff, Placer County SELPA, and POINT QUEST staff, expressly, by inference, or omission, that the previous policies and practices employed by GHS were, not only no longer employed, she was assured that the GHS employees were gone and would not be rehired at POINT QUEST.

40. For more than a decade, the California Department of Education ("CDE"), school districts, county offices of education and Special Education Plan Areas ("SELPAs") -have known that using restraints on students, particularly in response to predictable disability-related behavior, carries serious risks for their physical and emotional health.

41. There have been many reports of students with behavioral challenges dying or sustaining serious injuries due to abusive use of restraint systems, such as the Handle With Care system developed by Defendant Bruce Chapman. It is also well-known that restraints are disproportionately used against children with disabilities.

42. Despite this knowledge, nonpublic schools like Defendants GHS and POINT QUEST and their respective staffs continued to use such restraints frequently, in response to predictable behaviors that did not constitute an immediate or serious threat to the student or others, for extended periods of time, on students whose disabilities elevated the risk of using restraints, and with excessive force.

43. They could do so because the CDE, and the LEA Defendants abdicated their responsibilities to monitor and supervise GHS and POINT QUEST and ensure their compliance with state and federal laws prohibiting discrimination and the improper use of restraints.

44. The CDE continued to certify GHS continues to currently certify POINT QUEST, and the LEA Defendants continued to contract with and place their students with disabilities in the respective schools.

45. Plaintiff students with developmental and other disabilities whose local educational agencies placed them at GHS and POINT QUEST pursuant to their Individualized Education Plans ("IEP")

46. Each Plaintiff Student attended GHS sometime between 2006 and 2018, where its administrators and staff subjected them to excessive and harmful restraints and

1 other aggressive physical interventions in response to known behaviors associated with  
2 their disabilities, resulting in physical and emotional abuse and injury, and in the case  
3 of one other student, death.

4 47. GHS was, and POINT QUEST is, a nonpublic school-as that term is defined in  
5 Cal. Ed. Code § 56034-which contracted with the LEA Defendants to provide special  
6 education services to public school students with disabilities in exchange for state and  
7 federal educational funding.

8 48. As required by law, GHS and POINT QUEST entered into Master Contracts with  
9 the LEA's, as well as an Individual Services Agreement for each student placed there.

10 49. Each of the Plaintiff Students' IEP's included a Behavioral Intervention Plan  
11 ("BIP") which described the student's known disability-related behaviors and the  
12 intervention strategies and positive behavioral supports educators should use to  
13 prevent or respond to those behaviors.

14 50. Despite legal requirements (discussed below) and Defendants' knowledge of the  
15 dangers associated with restraints to students' physical and emotional health, GHS and  
16 POINT QUEST administrators and employees engaged in a policy and practice of using  
17 restraints as a substitute for the positive interventions detailed in the students' BIPs in  
18 response to predictable behavior that did not pose a clear and present danger of  
19 serious physical harm to the student or others. GHS and POINT QUEST used  
20 restraints against its students frequently, for periods of time that were longer than  
21 necessary, and with excessive force.

22 51. These restraints-including prone restraints- in which the child is placed face  
23 down on the floor with one or more adults applying force from above to keep the child's  
24 body immobile-frequently lasted over an hour.

25 52. Some students were restrained frequently, sometimes more than one time each  
26  
27  
28

day.

1 53. The restraints and other aggressive physical interventions inflicted by GHS and  
2 POINT QUEST caused the Plaintiff Students physical and emotional injuries.

3 54. GHS and POINT QUEST administrators were not only aware of the abuse, but  
4 encouraged it and were responsible for the school's policy and practice of using  
5 frequent, excessive, harmful and lengthy restraints as a substitute for positive  
6 behavioral interventions in response to students' predictable, disability-related  
7 behaviors.  
8

9 55. GHS and POINT QUEST did not provide adequate training in positive  
10 behavioral interventions, instead relying on Defendant Bruce Chapman's patented  
11 restraint system, Handle With Care Behavioral Management Systems, Inc. which was  
12 associated with numerous abuses by educational professionals on students with  
13 behavioral challenges.  
14

15 56. GHS and POINT QUEST training in the HWC method ignored requirements of  
16 state and federal law and did not provide proper warnings regarding the risks  
17 associated with restraining students or safeguards for monitoring and responding to  
18 signs of distress.

19 57. Moreover, GHS and POINT QUEST took significant measures to conceal its  
20 illegal use of restraints and child abuse from parents and the LEAs with which it  
21 contracted by failing to provide required reports to the parents and the State of  
22 California.  
23

24 58. Prior to the children's placement, GHS misrepresented orally, in enrollment  
25 documents, and in the children's IEP that the school focused on proactive, positive  
26 behavioral interventions and that corrective behavior would be "calm", "brief", and  
27 "respectful."  
28

59. The HWC Intervention Statement that parents had to sign as part of the enrollment packet emphasized positive intervention and "the 3-step prompt" which "entails a verbal request, followed by staff modeling and finally hand over hand with children who may have difficulty following directions . . . ." It represented that a restraint would be used only if the child appeared to be "a physical danger to themselves or others around them".

60. GHS used the HWC terminology in referring to the most dangerous restraint-a prone restraint-as a "neutral" restraint. *Id.* These misrepresentations were repeated in the students' BIPs developed as part of the IEP process and a part of the agreement between the parent/student, the LEA, and GHS.

61. When a student was restrained, GHS frequently failed to complete a Behavioral Emergency Report ("BER"), place the BER in the student's file, send it to the LEA, or notify the student's parent, as required by law and GHS's Master Contracts with the LEAs. Nor did GHS administrators or staff report the regular, systemic child abuse they witnessed and participated in at the school, despite the requirement to do so as mandated reporters.

62. GHS's use of restraints was so excessive in frequency, duration, force and purpose that any educator or monitoring official who personally observed the program for more than an hour would realize that the school and its staff had exceeded the legal bounds for emergency interventions and were physically abusing their students.

63. However, the CDE and the LEAs ignored their legal duties to supervise and monitor the program and continued to place vulnerable students in its care. GHS would still be abusing its students were it not for the death of a 13-year-old student who died after he was held in a prone restraint for almost two hours on November 28, 2018.

64. Plaintiff Thomas V.M. was a disabled student, placed at GHS on August 6, 2018,

1 because of his diagnosis of his disability. Plaintiff Jordan V.M. was a disabled student,  
2 placed at GHS on February 22, 2018, because of his diagnosis of disability. All  
3 plaintiffs, due to their disabilities, engaged in repetitive conduct that disrupted their  
4 educational experience and abilities.

5 65. Because of the disruption that affected other students, they were frequently  
6 placed in such restraints, which included but was not limited to, the imposition of  
7 restraints that constituted physical child abuse, battery, and assault.

8 66. Referring to these restraints as though they were normal and accepted ways of  
9 disciplining plaintiffs, Defendant administrators, teachers and assisting staff, as  
10 individually identified below, preyed on plaintiffs because of their disability related  
11 conduct.

12 67. These defendants assaulted and battered plaintiffs repeatedly rather than  
13 following the BIPs.

14 68. The LEA administrators, by and through their agency with GHS and POINT  
15 QUEST administrators tasked unqualified and inadequately trained staff with  
16 supervising plaintiff students, who often failed to document and report incidents of  
17 abuse, and failed to take reasonable steps to prevent further abuse.

18 69. Plaintiffs, like other students who were also subjected to such conduct, would  
19 attend class and when a student acted consistently with their predictable behaviors  
20 stated in their individual BIP and IEP (and the reason(s) why they were placed at GHS  
21 and POINT QUEST) or failed to follow the directions of the GHS and POINT QUEST  
22 staff as individually described below, they would be subjected to painful restraints in full  
23 and open view of fellow students.

24 70. Each plaintiff had specific conduct that was identified in their BIP, for which,  
25 each plaintiff had a set of less restrictive measures to be taken before a "hands on"  
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physical intervention such as painful restraints would be exercised.

1 71. Plaintiffs witnessed other students treated in the same way in their respective  
2 classes. The observation of such torturous conduct to other students and themselves  
3 caused Plaintiffs who were in their immediate presence to experience fear and anxiety  
4 such that they were terrorized in anticipation that they too might be hurt in the same  
5 way.

6 72. As to MARQUES, the documented abuse occurred from as early as December  
7 18, 2006, when Plaintiff MARQUES began attending GHS through March 19, 2008,  
8 when he was removed. For Thomas and Jordan V.M., it began when they first began  
9 to attend GHS on February 22, 2018, and lasted until they were removed on or about  
10 the end of December 2018 and officially, in January, 2019.

11 73. Shortly after beginning to attend Defendant POINT QUEST, Thomas was  
12 assaulted, battered, and restrained in the same fashion as described below. He was  
13 removed on or about October 1, 2019 and officially October 22, 2019.

14 74. No efforts were shown to protect plaintiffs from the continued abuse by the  
15 schools' administrations and, in fact, when complaints were made by plaintiff's  
16 respective parents, the administration of both schools backed their employees alleging  
17 the children were at fault and their employee's actions were necessary.

18 75. Defendants GHS and POINT QUEST, and their individual staff members as  
19 particularly described below, carried out these series of abusive acts upon Plaintiffs and  
20 other students, terrorizing them throughout their time at the school generating Plaintiffs'  
21 deeply held fears of reoccurrence.

22 76. The harmful effects of the abuse suffered by all Plaintiffs at the hands of the staff  
23 directly abusing him have been compounded by all the Defendants' (as individually  
24 named below) willful failure to adequately report, document, respond to, and prevent  
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27  
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the abuse.

1 77. Even after each of the plaintiffs' parents approached the defendants as  
2 described below, requesting information about the abuse that would explain the  
3 children's injuries, conduct at home, and their account of events, defendant  
4 administrators at the respective schools failed to provide any meaningful information  
5 regarding what transpired in their children's classroom, covering up their conduct by  
6 providing false accounts of the events.  
7

8 78. Plaintiffs Thomas and Jordan V.M. are in another school in Washington State.

9 79. The alleged acts and Plaintiffs' damages are such that proceeding through due  
10 process before the Office of Administrative Hearings would be both futile and irrelevant.

11 80. Plaintiffs' injuries cannot be redressed under the IDEA's due process procedures  
12 because they were assaulted and are not seeking the types of remedies available  
13 under the IDEA, rather seeking remedies for physical and emotional damages resulting  
14 from being assaulted.  
15

16 81. In addition, Plaintiff MARQUES is an adult and outside of the educational  
17 system.

18 82. The same is true for Plaintiffs Thomas and Jordan V.M. who are both outside the  
19 State of California in a private religious school.

20 83. From records to be obtained by Plaintiffs, there were restraint incidents involving  
21 Plaintiffs and they expressly reserve their right to amend this Complaint to include  
22 additional facts and/or claims as discovery in this case proceeds.  
23

#### 24 **OPERATIVE FACTS**

25 84. Plaintiffs incorporate by reference all preceding paragraphs as though fully set  
26 forth herein.

#### 27 **AS TO PLAINTIFF MARQUES**

85. Over a one-and-one-half year period as specifically set forth below in each cause of action, Defendants ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOE defendants repeatedly unlawfully assaulted Plaintiff MARQUES by grabbing him, pushing or otherwise forcing him to the floor and, in painful positions, pinning all four appendages for various periods of time, immobilizing him, including as punitive measures. All were either for an unnecessarily prolonged period of time or had failed to utilize the less restrictive measures set forth in his BIP for predictable behaviors related to his disability.

86. MARQUES was a student at GHS from 2006 to 2008. He was referred to GHS by Elk Grove School District employees.

87. MARQUES had both an Individual Education Plan (IEP) and a Behavioral Intervention Plan (BIP) at all relevant times herein.

88. Defendants GHS, MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOE defendants failed to file Behavioral Emergency Reports or document injuries as required by law, so all of the dates of assaults all are unknown to MARQUES at the present time.

89. Those that are identified occurred on Sept. 12, 2006, Dec. 18, 2006, April 16, 2007, April 23, 2007, September 4, 2007, September 5, 2007, October 31, 2007, March 19, 2008, set forth in greater detail below.

90. On September 12, 2006, and 9:50 AM, guiding hands employees Kera Bruce and Ashley Robb, put MARQUES in a restraint for 12 minutes because he failed to stand appropriately and when escorted from the line he was standing in, kicked a student and Bruce. He was restrained "per CPI". Both Dolores ZOMBURY and David Chapman participated in the restraint.

91. On December 18, 2006, at 1:45 PM Ashley Robb and Kera Bruce instituted an

1 eight minute restraint after MARQUES had been found to have a toy belonging to  
2 another student. What he was told to return the toy he began to kick his desk and a  
3 filing cabinet. He was placed in a basket restraint.

4 92. On April 16, 2007 at 9 AM, MARQUES was put in a restraint for five minutes by  
5 ZOMBURY, after he refused to sit down and began throwing pencils and calling  
6 children names.

7 93. On April 17, 2007, at 10 AM, MARQUES was put in a restraint by Dolores  
8 ZOMBURY for five minutes after he was told to put a pointer down and had slapped it  
9 on the desk of another student. When he was directed to sit down he ran around the  
10 room and was restrained.

11 94. On April 17, 2007, at 10:50 AM, MARQUES was put in a restraint for 30 minutes  
12 by Dolores ZOMBURY and subsequently by a teacher's aide known only as "Laure",  
13 when MARQUES refused to give back a protein bar and be escorted to his seat. He  
14 kicked the teacher and was taken to the "corner".

15 95. On April 23, 2007, at 8:35 AM, he was placed in a three minute restraint by  
16 ZOMBURY after another student had pushed him, rubbing "snot" on his jacket and in  
17 response he pushed that student down.

18 96. On April 23, 2007 11:30 AM, MARQUES was put in a restraint when he began  
19 swearing and started to run towards another student after he disregarded a request by  
20 the instructor to put his head down on his desk. The staff involved were ZOMBURY and  
21 Chambers.

22 97. On September 5, 2007, 2 PM, MARQUES was put in a restraint by instructor  
23 Vince Anderson, because he failed to follow directions and began yelling in the  
24 presence of his mother.

25 98. On March 19, 2008, CORY, BRYNA, CHAMBERS, and DOE defendants  
26  
27  
28

restrained MARQUES, forcing him to the floor and containing him in a "basket hold."

1 99. In this restraint, MARQUES was pushed to the ground and placed in a position  
2 for an extended period of time, while his arms were pulled behind his back. GHS staff  
3 sat at his back while he was in this position, increasing his pain and making it difficult  
4 for him to move.

5 100. This incident arose when another child assaulted MARQUES with a rock and  
6 MARQUES defended himself.

7 101. When assaulted by GHS staff on March 19, 2008, MARQUES suffered bruises  
8 to his chest, burns to his elbows, and severe soft tissue damage to his back and  
9 buttocks as a result of these restraints.  
10

11 102. MARQUES subsequently suffered panic attacks, night-terrors, startles,  
12 depression and self-loathing as a result of these restraints.

13 103. MARQUES was abused on additional occasions while attending GHS.

14 104. MARQUES will seek leave to allege these dates according to proof when further  
15 information becomes available through the discovery process.  
16

17 105. At all relevant times, MARQUES's behaviors were known and predictable and  
18 had previously been addressed in his Behavioral Intervention Plan.

19 106. The restraints imposed upon MARQUES, as herein alleged, constituted child  
20 abuse (Penal Code Section 273a), corporal punishment (Penal Code Section 273d)  
21 and battery (Penal Code Sec. 242), and torture (Penal Code Section 260) prohibited  
22 by California law.  
23

24 **AS TO THOMAS V.M.**

25 107. Thomas V.M. was restrained by GHS and POINT QUEST staff on many  
26 occasions the precise details are neither known to he nor his mother at this time, other  
27 than that described as follows.  
28

108. Thomas V.M. was restrained in some fashion on September 5, 2018, for forty (40) minutes by or in the presence of Defendant Noel COLLIER, who left a phone message for Gloria V.M. on that date informing her of the incident where he refused to participate in an art exercise and was restrained as a result of staff intervention.

109. Thomas V.M. was restrained in some fashion on September 19, 2018, by or in the presence of Defendant Noel COLLIER.

110. Thomas V.M. was restrained in some fashion on October 3, 2018, by or in the presence of Defendant Noel COLLIER, when he refused to cooperate with staff.

111. Thomas V.M. was restrained in some fashion on October 23, 2018, by or in the presence of Defendant Noel COLLIER and David Chambers, when he would not cooperate with staff and bit one on the leg.

112. Thomas V.M. was restrained in some fashion on October 18, 2018, by or in the presence of Defendant Noel COLLIER when he would not cooperate with staff.

113. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 3, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would not give up a ball nor participate in Yoga.

114. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 5, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would participate in his math lesson and threw a pencil and his book.

115. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 19, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would not give up a ball nor participate in school work, threw his paper at Noelle DOW and tried to leave the classroom.

116. Thomas V.M. was restrained by a staff member named "Jennifer" when attending POINT QUEST and, as a result, his mother immediately withdrew him from the school.

117. Thomas V.M. knows that "Jennifer" was a previous staff member at GHS.

**AS TO JORDAN V.M.**

118. Jordan V.M. was restrained by GHS staff on many occasions the precise details are neither known to he nor his mother at this time, other than that described as follows:

119. Jordan V.M. was restrained in a restraint of some fashion on February 26, 2018, by or in the presence of Defendant Amanda Doe, when he would not cooperate on a bus trip home.

120. Jordan V.M. was restrained in a restraint of some fashion on October 10, 2018, by or in the presence of Defendant Noel COLLIER, when he was asked to do class work and threw a crayon.

121. Jordan V.M. was restrained in a restraint of some fashion on October 9, 2018, by an unknown staff member, possibly "Dorian", for an unknown reason.

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**FIRST CAUSE OF ACTION**

AS TO PLAINTIFF MARQUES Against GHS;  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
and DOES 1-100.  
(Violation of California Civil Code §§ 51, *et seq.*)

122. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth herein.

123. Plaintiff MARQUES was a person with disabilities as defined by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. He had been diagnosed with

Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder and was limited in the major life activities of learning.

124. Plaintiffs THOMAS and JORDAN V.M. are persons with disabilities as defined by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. They had been diagnosed as Autistic.

125. Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT are businesses establishment covered by California Civil Code §51.

126. GHS, POINT QUEST and their staffs subjected Plaintiffs to physical and emotional abuse in response to behavior that was a manifestation of Plaintiffs' disabilities as described above.

127. GHS and POINT QUEST discriminated against Plaintiffs in that they did not provide them with full and equal enjoyment of GHS' and POINT QUEST's goods, services, facilities, privileges, advantages, or accommodations.

128. Plaintiffs were not provided with the services, facilities, privileges, advantages and accommodations of GHS and POINT QUEST on a basis equal to that afforded to individuals without disabilities.

129. The discipline methods, behavior standards and criteria employed by GHS and POINT QUEST caused Plaintiff to be subjected to physical and emotional abuse as a result of his disabilities.

130. GHS and POINT QUEST failed to make reasonable modifications to their educational and behavioral intervention methods and staff training that were necessary to afford students with disabilities such as Plaintiff equal access to GHS's and POINT QUEST's goods, services, facilities, privileges, advantages and accommodations.

131. The actions and failures to act of GHS and POINT QUEST violated Title III of the

Americans with Disabilities Act of 1990, 42 U.S.C. § 121 Defendant has committed additional violations of the Unruh Civil Rights Act in that the conduct alleged herein constitutes a violation of various provisions of the Americans with Disabilities Act, 42 U.S.C. sections 12181, *et seq.* As such, Defendant's actions also constituted a violation of the Unruh Act under Cal. Civ. Code § 51(f).

132. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

133. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense pursuant to California Civil Code section 52.

134. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

#### **SECOND CAUSE OF ACTION**

Violation of Cal. Civ. 51.7 Ralph Civil Rights Act

AS TO PLAINTIFF MARQUES Against GHS and DOES 1-100;

AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT

135. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth herein.

136. Defendants in doing the acts described above violated Plaintiffs' rights under the Ralph Civil Rights Act.

137. Plaintiffs have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of any characteristic listed or defined in subdivision (b) or (e) of Section 51, because another person perceives them to have one or more of those characteristics.

138. In committing the acts described above, all defendants have violated Plaintiffs' rights by subjecting them to violence and intimidation.

139. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN  
UNIFIED SCHOOLS were the product of joint action between public entities and  
individual employees.

140. Defendants are liable to Plaintiffs for each and every offense for actual damages  
and multiple damages of up to three times the actual damages incurred, but in no case  
less than \$4000 per offense pursuant to California Civil Code section 52.

141. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

### THIRD CAUSE OF ACTION

For Interference with Exercise of Civil Rights in  
Violation of California Civil Code Section 52.1

AS TO PLAINTIFF MARQUES Against GHS,  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT

142. Plaintiff incorporate, by reference herein, all preceding paragraphs , as though  
fully set forth herein.

143. California Civil Code 52.1 provides that it is unlawful to interfere with the exercise  
or enjoyment of any rights under the Constitution and the laws of this state and the  
United States by attempted use of threats, intimidation or coercion.

144. The California Constitution establishes the right to a free public education to all  
students on an equal basis. *Butt v. California*, 4 Cal. 4th 668, 685 (1992).

145. California Civil Code section 43 guarantees the right of every person to be free  
from bodily restraint or harm and personal insult.

146. In doing the things herein alleged, Defendants intentionally interfered with and  
attempted to interfere with Plaintiff's civil rights by threats, intimidation, or coercion.

147. Defendants acted violently against Plaintiff, thereby preventing him from  
exercising his rights.

148. Defendants' conduct caused Plaintiff to suffer physical and emotional harm.

149. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN  
1 UNIFIED SCHOOLS were the product of joint action between public entities and  
2 individual employees.

3 150. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY  
4 SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants,  
5 as herein alleged, was a substantial factor in causing said harm to Plaintiff.

6 151. Defendants' GHS and POINT QUEST's employees, violated Plaintiffs' rights by  
7 using a physical restraint technique that impaired Plaintiffs' ability to breathe; placing  
8 Plaintiffs in a face down position with the pupil's hands held or restrained behind the  
9 pupil's back; and by using a behavioral restraint for longer than was necessary to  
10 contain the behavior that allegedly posed a clear and present danger of serious  
11 physical harm to the pupil or others.

12 152. Defendant employees of GHS and POINT QUEST acted with conscious  
13 disregard of Plaintiffs' rights and the fact that their conduct was certain to cause injury  
14 and/or humiliation to Plaintiffs. Plaintiffs are informed and believe that Defendant  
15 employees of GHS and POINT QUEST intended to cause fear, physical injury and/or  
16 pain and suffering to Plaintiff. Plaintiff is therefore entitled to recover punitive and  
17 exemplary damages.

18 153. Plaintiff is also entitled to actual and/or statutory damages, as well as reasonable  
19 attorneys' fees and costs as set by the Court.

20  
21  
22  
23 **FOURTH CAUSE OF ACTION**

(Violation of California Education Code §§ 200, 201, 220, and 260 et seq. -

24 AS TO PLAINTIFF MARQUES Against GHS,

25 AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
26 CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT

27 154. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
28 fully set forth herein.

155. Plaintiffs are individuals with disabilities.

156. At all times relevant to this complaint, Defendant GHS was an educational institution providing education to students from kindergarten through twelfth grade and receiving financial assistance from the State of California.

157. Defendants discriminated against Plaintiff on the basis of their disability by subjecting them to physical and emotional abuse in response to disability-related behavior.

158. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

159. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged, was a substantial factor in causing said harm to Plaintiff.

160. As a proximate cause of the actions of Defendants herein, Plaintiff is entitled to damages in an amount according to proof and reasonable attorneys' fees and costs.

#### **FIFTH CAUSE OF ACTION**

**Assault and Battery Pursuant to California Penal Code Section 206  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M.  
against Defendants MEYERS, KELLER, CHAMBERS, RAMSEY,  
"JENNIFER"DOE, DOES 1-100.**

161. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

162. CHAMBERS, MEYERS, KELLER, RAMSEY, "JENNIFER"DOE, and DOE defendants, with the intent to cause cruel or extreme pain and suffering for the purpose of persuasion, or for a sadistic purpose, inflicted significant injury upon Plaintiffs by repeatedly assaulting Plaintiffs throwing them to the ground and causing bruises, contusions and lacerations.

163. As a result, Plaintiffs suffered physical and psychological injuries.

164. Defendants acted with the intent to cause injury and that action and intention was despicable, done with a willful and knowing disregard of the rights of Plaintiffs.

165. Defendants acted knowingly and aware of the probable consequences of their conduct and deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel and unjust hardship.

166. Defendants' conduct, assaulting a disabled child is so vile, base, and contemptible that it would be looked down upon and despised by reasonable people.

167. Defendants' conduct in intentionally assaulting and restraining Plaintiffs knowing of their disabilities was malicious and outrageous such that exemplary damages should be awarded.

168. WHEREFORE, Plaintiffs pray for judgment for damages according to proof.

**SIXTH CAUSE OF ACTION  
ASSAULT AND BATTERY**

Thomas and Jordan V.M. against Defendants MEYERS, KELLER, RAMSEY,  
ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS,  
"JENNIFER DOE," DOES 1-100

169. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

170. In doing the things herein alleged, said defendants intended to cause, and did cause Plaintiffs Thomas and Jordan V.M. to suffer harmful or offensive contact.

171. As a result of said conduct of said defendants, Plaintiffs Thomas and Jordan V.M., reasonably believed that they were about to be touched in a harmful or offensive manner, and in a manner that offended a reasonable sense of personal dignity.

172. In doing the things herein alleged, said defendants threatened to touch Thomas and Jordan V.M. in a harmful or in an offensive manner.

173. At all times herein mentioned, it reasonably appeared to MARQUEZ, Thomas and Jordan V.M. that said defendants were about to carry out the threat.

174. At all times herein mentioned, Thomas and Jordan V.M. did not consent to the conduct of said defendants.

175. Thomas and Jordan V.M. suffered harm, as herein alleged.

176. The aforementioned conduct of said defendants was a substantial factor in causing Thomas and Jordan V.M. harm. The conduct of said defendants, caused Thomas and Jordan V.M. to be apprehensive that said defendants would subject Thomas and Jordan V.M. to further intentional invasions of their right to be free from harmful and offensive contact, and demonstrated that at all times material herein, said defendants had a present ability to subject Thomas and Jordan V.M. to an intentional offensive and harmful touching.

177. Said defendants' unlawful conduct, as herein alleged, was a substantial factor in causing Thomas and Jordan V.M. to suffer physical and emotional injury, and future physical and emotional injury, all in an amount within the jurisdiction of the court according to proof at trial.

178. At all relevant times, said defendants acted with conscious disregard of MARQUEZ, Thomas and Jordan V.M. rights, safety, physical well-being and feelings. Said defendants also acted with the knowledge of, or with reckless disregard for, the fact that their conduct was certain to cause injury and/or humiliation to Thomas and Jordan V.M. Said defendants intended to cause fear, physical injury and/or pain and suffering to Thomas and Jordan V.M.

179. By virtue of the foregoing, the estate of Thomas and Jordan V.M. are entitled to recover punitive and exemplary damages from individual and non-public entity

defendants according to proof at trial. Estate of Thomas and Jordan V.M. make no claim for punitive damages against the named defendants.

## SEVENTH CAUSE OF ACTION

### INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Gloria V.M. against all RUSD, PLACER COUNTY SELPA, GHS AND RUSD ADMINISTRATORS defendants;

Thomas and Jordan V.M. against defendants GHS, POINT QUEST, David CHAMBERS, Susan Jane BATTLE, "Cory" Doe, Cory QUINCEY, Byrna QUINCEY, Noel COLLIER, Ashley ROBB, Dolores ZUMBURY, Vince ANDERSON, Nicole Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC.

180. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

181. In doing the things herein alleged, the conduct of said defendants was outrageous in that it was so extreme as to exceed all bounds of that usually tolerated in a civilized community.

182. Said defendants inflicted actual injury and/or acted with reckless disregard of the probability that Plaintiffs Gloria, Thomas and Jordan V.M. would suffer emotional distress, knowing that the children who were restrained, including Gloria, Thomas and Jordan V.M., were present when the conduct occurred.

183. The conduct of said defendants, as herein alleged, was a substantial factor in causing Gloria, Thomas and Jordan V.M., to suffer severe emotional distress, severe mental anguish, humiliation, pain, and physical distress.

184. Said defendants knew or should have known that Thomas and Jordan V.M. did not need to be, for their safety or the safety of others, and did not want to be, physically forced into prolonged prone restraints, standing, seated, settled and/or small child restraints.

185. Said defendants' knowing disregard for the safety of Thomas and Jordan V.M. and said defendants' deliberate failure to monitor and control their behavior towards

1 exceptional needs students, such as Thomas and Jordan V.M. caused Thomas and  
2 Jordan V.M. to be repeatedly battered and assaulted by teachers and aides at GHS  
3 and POINT QUEST.

4 186. Said defendants' conduct was extreme and outrageous.

5 187. Said defendants acted willfully and wantonly, and with reckless disregard for  
6 plaintiffs' rights and feelings, and with deliberate indifference to the certainty that Gloria,  
7 Thomas and Jordan V.M. would suffer emotional distress.

8 188. The outrageous conduct of said defendants described herein was willful and  
9 malicious and was performed with conscious disregard for the rights, safety, physical  
10 well-being and feelings of the Gloria, Thomas and Jordan V.M. As a result, Gloria,  
11 Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual  
12 and non-public entity defendants in a sum according to proof.

13 **EIGHTH CAUSE OF ACTION**  
14 **FALSE IMPRISONMENT CONSPIRACY TO COMMIT FALSE IMPRISONMENT**  
15 **ASSERTED by Thomas and Jordan V.M. against all individual defendants**

16 189. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
17 fully set forth herein.

18 190. Said defendants, in concert with one another, did intentionally and unlawfully,  
19 and conspire to, exercise force, threat, implied threat of force, or duress, to restraint  
20 and confine Thomas and Jordan V.M. , and deprive them of their freedom of  
21 movement, when said defendants committed the acts described herein.

22 191. Thomas and Jordan V.M. did not knowingly or voluntarily consent to said  
23 restraints.

24 192. As a proximate cause of the restraints, Thomas and Jordan V.M. suffered actual  
25 physical and emotional harm, as herein alleged.

26 193. That the conduct of said defendants, as herein alleged, was a substantial factor  
27  
28

in causing harm to Thomas and Jordan V.M.

194. The outrageous conduct of the said defendants was willful and wanton, and was performed with conscious disregard for the rights, safety, physical well-being and feelings of Thomas and Jordan V.M.

195. As a result, Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual and non-public entity defendants in a sum according to proof at time of trial.

**NINTH CAUSE OF ACTION  
NEGLIGENCE**

Gloria V.M. against all RUSD, PLACER COUNTY SELPA, GHS AND RUSD  
ADMINSTRATORS defendants;

Thomas and Jordan V.M. against defendants GHS, POINT QUEST, David  
CHAMBERS, Susan Jane BATTLE, "Cory" Doe, Cory QUINCEY, Byrna QUINCEY,  
Noel COLLIER, Ashley ROBB, Dolores ZUMBURY,  
Vince ANDERSON, Nicole Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC.

196. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

197. Said defendants breached their duty towards Thomas and Jordan V.M. by:

a. Failure to develop and maintain effective procedures governing emergency interventions;

b. Failure to obtain proper training for use of behavioral emergency interventions

c. Failure to provide oversight on the use of restraints

d. Failure to develop protocols for use of restraints

f. Failure to prohibit restraints on physically disabled children

g. Failure to prohibit prolonged restraints (anything over 15 minutes)

h. Failure to require that Thomas and Jordan V.M. be released from a restraint at the earliest possible moment.

i. Failure to prohibit the use of any restraint when contraindicated by Thomas and Jordan V.M. medical or psychological conditions, which were known to increase the risk of physical injury.

- j. Failure to prohibit restraints that constrict the child's ability to breathe.
- k. Failure to prohibit the use of multiple staff members in a restraint, which exponentially increases the risk of injury.
- l. Failure to provide for the comfort of Thomas and Jordan V.M. while in prone restraint, including, but not limited to: offering Thomas and Jordan V.M. fluids, bathroom use, exercise, range of motion and periodic release of limbs.
- m. Failure to require monitoring by staff of the vital signs of the child regularly throughout the restraint.
- n. Failure to require continuous, close supervision of a restraint by the HWC trainer or another staff member who is not involved in the restraint.
- o. Failure to require immediate and accurate reporting on each restraint
- p. Failure to conduct a prompt and thorough review of any restraint imposed as a means to ensure compliance with laws and policies; to ensure continuing safety of students; and to prevent other incidents of restraint.
- q. Failure to provide for:
- primary preventative measures rather than restraint;
  - interventions that are less intrusive than restraints;
  - effective ways to de-escalate situations to avoid restraints; and
  - crisis intervention techniques that utilize alternatives to restraint.
- r. Failure to provide staff with resources and tools to properly respond to the needs of those whom they serve and to be able to identify and address the triggers that may cause emotionally disturbed children to react in ineffectual ways to the environment.
- s. Failure to teach students adaptive behaviors, especially involving autistic children who do not have effective ways of communicating and interacting with others.
- t. Allowing use of physical restraints on children which:
- create an aversive environment counterproductive to facilitating learning;
  - cause significant physical harm, serious, foreseeable long term psychological impairment.
- u. Failure to provide oversight on the use of restraints to determine
- whether the intervention was necessary
  - whether each restraint was implemented in a manner consistent with staff training, as well as school and District (SELPA) policy.
- v. Failed to document injuries caused by restraint and

1 w. Failed to get medical attention for a child who was injured while in  
2 restraint.

3 198. As a foreseeable result of the breach of said mandatory duties by said  
4 defendants, said school staff at GHS and POINT QUEST imposed numerous and  
5 prolonged prone restraints on Thomas and Jordan V.M. as hereinabove alleged,  
6 resulting in injuries to Thomas and Jordan V.M.

7 199. Breach of said mandatory duties by said defendants was a substantial factor  
8 in causing injuries Thomas and Jordan V.M.

9 200. At all times herein mentioned said defendants breached the general duties of  
10 due care of educational professionals toward Thomas and Jordan V.M. who were  
11 disabled students under their guidance and care.

12 201. At all times herein mentioned, said defendants willfully, knowingly,  
13 intentionally, maliciously, and routinely used or encouraged the use of prone and  
14 other restraints on special needs/disabled children, including Thomas and Jordan  
15 V.M. as a form of corporal punishment in violation of California law.

16 202. At all times herein mentioned, said defendants willfully, knowingly,  
17 intentionally, maliciously, and routinely used or encouraged the use of prone and  
18 other restraints, known by said defendants to be dangerous, on disabled children,  
19 including on Thomas and Jordan V.M. with reckless disregard for the safety of said  
20 children.

21 203. At all times herein mentioned, said defendants, in doing each of the afore-  
22 mentioned acts, willfully, knowingly, intentionally, maliciously, and routinely used, or  
23 encouraged the use of, prone and other restraints, to injure special needs/disabled  
24 children and to create a reign of terror within the educational environment, in place  
25 and instead of providing educational services for special needs/disabled children, for  
26  
27  
28

which they were hired.

204. As a direct and foreseeable result of the negligence of said defendants learning of the death of Max Benson, plaintiffs and their own injuries Thomas and Jordan V.M. suffered physical and emotional injuries.

205. The negligence of said defendants was a substantial factor in causing injury Thomas and Jordan V.M. to suffer physical and emotional injuries.

206. By virtue of the willful and wanton, knowing, intentional, malicious acts of said defendants, and acts by said defendants that were done and acts done in reckless disregard for the safety and lives of Thomas and Jordan V.M., Thomas and Jordan V.M. are entitled to punitive damages against individual non-public entity defendants according to an award at the time of trial.

#### **TENTH CAUSE OF ACTION**

##### **NEGLIGENT SUPERVISION**

Thomas and Jordan V.M. against defendants GHS, POINT QUEST, David CHAMBERS, Susan Jane BATTLE, "Cory" Doe, Cory QUINCEY, Byma QUINCEY, Noel COLLIER, Ashley ROBB, Dolores ZUMBURY, Vince ANDERSON, Nicole Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC.

207. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

208. Said defendants had a legal duty to exercise reasonable care in supervising special needs students in its respective charge pursuant to California Education Code section 44807 and may be held liable for injuries proximately caused by the failure to exercise such care.

209. Said defendants failed to exercise reasonable care in supervising Thomas and Jordan V.M. when they suffered the abuse as described herein.

210. Said defendants breached their duties to Thomas and Jordan V.M. when they failed to supervise Thomas and Jordan V.M., its administrators and staff during the

abuse, and failed to ensure that GHS and POINT QUEST administrators and staff were adequately trained and provided proper supervision.

211. As a direct and proximate result of the actions of said defendants as alleged herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages according to proof.

**ELEVENTH CAUSE OF ACTION  
NEGLIGENCE PER SE**

Thomas and Jordan V.M. against defendants GHS, POINT QUEST, David CHAMBERS, Susan Jane BATTLE, "Cory" Doe, Cory QUINCEY, Byrna QUINCEY, Noel COLLIER, Ashley ROBB, Dolores ZUMBURY, Vince ANDERSON, Nicole Doe, Jennifer Doe

212. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein

213. In doing the things herein alleged, said defendants violated the mandatory duties toward Thomas and Jordan V.M. as prescribed by state and federal law as referenced in each of the statutes as set forth here-in-above.

214. Said violations were of the statutes specifically intended to protect the class of plaintiff and to prevent the injuries as those described herein.

215. Said violations of criminal and civil law were a substantial factor in bringing about the harm alleged to Thomas and Jordan V.M. as set forth hereinabove.

216. As a direct and proximate result of the actions of said defendants as alleged herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages according to proof.

**TWELFTH CAUSE OF ACTION  
Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing**

Asserted by the Plaintiffs Gloria, Thomas and Jordan V.M. Against Defendants GHS, Meyers, Keller, Point Quest, Troy Tickle, Kristi Gregerson, Cara Bruce and Doe Defendants 1-100

217. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though

fully set forth herein.

1 218. Upon the respective enrollment of Thomas and Jordan V.M. entered into a  
2 written contract with GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
3 Gregerson, Cara Bruce and DOE defendants for the education of their children.

4 219. At all times herein mentioned, Thomas and Jordan V.M. were intended third  
5 party beneficiaries to the afore-mentioned contracts entered into between their parents  
6 and defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
7 Gregerson, Cara Bruce and DOE defendants.

8  
9 220. As a part of said contract, GHS, MEYERS, KELLER, POINT QUEST, Troy  
10 Tickle, Kristi Gregerson, Cara Bruce and DOE defendants provided each of said  
11 parents, with a copy of GHS' and POINT QUEST's parent/teacher handbook in which  
12 GHS and POINT QUEST indicated that they had a system of positive behavior  
13 intervention and support. The GHS handbook also indicated that defendant GHS  
14 would "customize" the system to support student outcomes and "interact with students  
15 in a way that promotes social proficiency." The GHS handbook states that "social  
16 competence is a skill that requires direct teaching." The handbook assured parents  
17 that adult behavior when correcting a child would be "calm", "brief", and "respectful."

18  
19 221. As part of the contract between said parties and defendants GHS, MEYERS,  
20 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
21 defendants promised to plaintiffs, and each of them, not to discriminate in any activity  
22 against any student based on physical or mental disability and further promised to  
23 prohibit intimidation or harassment by any employee of defendant GHS, MEYERS,  
24 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
25 defendants against any student based on physical or mental disability.

26  
27 222. As part of said contract, defendants GHS, MEYERS, KELLER, POINT QUEST,  
28

1 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
2 and each of them, to use Positive Behavior Interventions and Supports to correct  
3 inappropriate behavior and to interact with students in a way which promotes social  
4 proficiency and academic success, using as examples "positive language and  
5 redirecting behavior using a lesson."

6 223. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST,  
7 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
8 and each of them, that adult behavior when correcting a child would be "calm,  
9 consistent, brief, immediate and respectful," and that their behavior intervention  
10 approach involved a three step prompt "verbal, modeling, hand-over-hand."

11 224. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST,  
12 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
13 and each of them, that restraints would be imposed only if the child was a danger to  
14 himself or others so as to de-escalate and re-integrate into classroom activities; the  
15 restraints and their possible consequences for injury and death were not truthfully or  
16 accurately described to plaintiffs, and each of them, by defendants GHS, MEYERS,  
17 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
18 defendants; and the most dangerous type of restraint, a prone restraint, was described  
19 by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson,  
20 Cara Bruce, and DOE defendants to each of Thomas and Jordan V.M's parents in  
21 innocuous language as a "neutral" restraint.  
22

23  
24 225. Plaintiffs, and each of them, did all of the significant things that the contract  
25 required them to do.

26 226. At all times herein mentioned, all of the conditions required for defendant GHS,  
27 MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and  
28

DOE defendants had occurred.

1 227. Defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
2 Gregerson, Cara Bruce, and DOE defendants unfairly interfered with the rights of  
3 plaintiffs, and each of them, to receive the benefits of the contract by engaging in the  
4 conduct as herein alleged.

5 228. Defendant GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
6 Gregerson, Cara Bruce, and DOE defendants' interference with the afore-mentioned  
7 benefits of the contract was done in bad faith in that defendants routinely imposed  
8 corporal punishment, in addition to dangerous prone and other restraints, on special  
9 needs/disabled children under their care.  
10

11 229. By virtue of the bad faith interference with the contract benefits by defendants  
12 GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce,  
13 and DOE defendants with said plaintiffs' contractual rights, plaintiffs MARQUES,  
14 Thomas and Jordan V.M., suffered severe emotional distress.  
15

16 230. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER,  
17 POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with  
18 said plaintiffs' contractual rights are entitled to medical and therapeutic costs.

19 231. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER,  
20 POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with  
21 said plaintiffs' contractual rights, Gloria V.M. and the beneficiaries of said contract,  
22 Thomas and Jordan V.M., have suffered severe emotional and physical distress at  
23 having the respective children injured by being placed in prone and other restraints  
24 because of their autism and other disabilities.  
25

26 232. By virtue of said bad faith interference with contractual benefits, all plaintiffs  
27 suffered physical and emotional injuries, and future general and special damages as  
28

herein alleged.

1 233. The bad faith interference by defendants GHS, MEYERS, KELLER, POINT  
2 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants was a  
3 substantial factor in causing each of the afore-mentioned injuries to plaintiffs, and each  
4 of them.

5 234. In doing the things herein alleged, defendants GHS, MEYERS, KELLER, POINT  
6 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants acted  
7 recklessly and with conscious disregard for the rights of plaintiffs, and each of them,  
8 willfully and maliciously exceeding the bounds of all behavior in a civilized behavior,  
9 brutalizing special needs/disabled children who had been entrusted to their care by  
10 their parents so as to receive an education that would allow their children to grow into  
11 well adjusted, well-functioning adults. As a consequence, plaintiffs, and each of them,  
12 are entitled to punitive damages.  
13

14 **THIRTEENTH CAUSE OF ACTION**

15 **FRAUD**

16 Asserted by Gloria V.M.

17 235. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
18 fully set forth herein.

19  
20 236. On or about the date of enrolling their respective children in defendant GHS,  
21 defendants, GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants,  
22 represented to Gloria V.M. that said defendants would not to discriminate in any activity  
23 against any student at GHS based on physical or mental disability under Title IX,  
24 Education Code section 106.8(a)(d) and 106.9.8(a); that they prohibited intimidation or  
25 harassment by any employee of defendants GHS and POINT QUEST against any  
26 student based on physical or mental disability; that said defendants and their  
27 employees would use Positive Behavior Interventions and Supports to correct  
28

1 inappropriate behavior and to interact with students in a way which promotes social  
2 proficiency and academic success, including using "positive language and redirecting  
3 behavior using a lesson"; that behavior by GHS' staff when correcting a child would be  
4 "calm, consistent, brief, immediate and respectful,"; that GHS and POINT QUEST  
5 behavior intervention approaches involved a three step prompt "verbal, modeling, hand-  
6 over-hand"; and that restraints would be imposed only if the child was a danger to  
7 himself or others so as to de-escalate and re-integrate into classroom activities.

8 237. On or about the dates of the respective enrollment of Thomas and Jordan V.M.,  
9 at GHS and POINT QUEST, PLACER and ROCKLIN UNIFIED SCHOOLS and their  
10 employees represented to Gloria V.M that they were required to sign a form allowing  
11 defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, to impose  
12 restraints on said plaintiffs' respective children, with the implied threat that if they did  
13 not sign the form their respective children would not be enrolled at GHS, which was the  
14 only school available to educate said children, and therefore, the parents would be in  
15 violation of California's mandatory education law.  
16

17 238. That the afore-mentioned representations of defendants, were false, and Gloria  
18 V.M. learned that they were false on or after November 29, 2018, upon the death of  
19 MAX, when they discovered that they did not have to allow or consent to the use of  
20 restraints against their disabled children.  
21

22 239. Said defendants knew that said representations were false when they made  
23 them, and/or said defendants made the representations recklessly and without regard  
24 for the truth of said representations.

25 240. Said defendants intended that GLORIA V.M. rely on said representations.

26 241. GLORIA V.M. reasonably relied on said representations, and enrolled their  
27 respective children at defendant GHS to receive an education.  
28

242. GLORIA V.M. were harmed by said intentional representations, in that each of said plaintiffs suffered severe emotional distress upon seeing their respective child injured at the hands of GHS and its staff after being placed in prone and other types of restraints for known behaviors related to the child's special needs and disability, and which behaviors did not present a clear and present danger to himself or others; and further plaintiffs, Thomas and Jordan V.M. suffered severe emotional distress when MAX was injured and killed after he had a behavioral outburst as a result of being isolated from the rest of the class with no staff member near him to keep him calm.

243. GLORIA V.M. reliance on said representations was a substantial factor in causing the severe emotional distress of said plaintiffs.

244. At all relevant times, said defendants acted with conscious disregard of the rights and feelings of GLORIA V.M. , and acted with the knowledge of, or with reckless disregard for, the fact that their conduct was certain to cause severe emotional distress to said plaintiffs. By virtue of the foregoing, said plaintiffs are entitled to recover punitive and exemplary damages from non-public entity defendants according to proof at the time of trial.

**FOURTEENTH CAUSE OF ACTION**  
**Title II of the Americans with Disabilities Act of 1990,**  
**42 U.S.C. Sec's 12101 et seq.**

Thomas, V.M. and Jordan V.M. vs CDE,  
Rocklin Unified Schools, and Placer County SELPA

245. Plaintiffs incorporate by reference all preceding paragraphs.

246. Title II of the ADA prohibits public entities from denying persons with disabilities the benefits of its programs, services or activities. 28 U.S.C. § 12132.

247. Defendants CDE, Rocklin Unified Schools, and Placer County SELPA are public entities.

248. Thomas, V.M. and Jordan V.M. were at all relevant times students with disabilities who had been placed at GHS via their IEPs.

249. The ADA is violated not only by outright discrimination but also when a public entity engages in "forms of discrimination which deny disabled persons public services disproportionately due to their disability." *Crowder v. Kitagawa*, 81 F. 3d 1480, 1483 (9th Cir. 1996); see also, *Mark H. v. Lemahieu*, 513 F.3d 922, 937 (9th Cir. 2008). The ADA prohibits governmental agencies from denying persons with disabilities from "the benefits" of their programs. *Mark H.*, 513 F.3d at 937. The ADA requires more than just some access to governmental services; it requires "meaningful access". *Id.*

250. A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

- a. Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- b. Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- c. Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the public entity's program;
- d. Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

28 C.F.R. § 35.130(b)(1)(ii)(iii)(v) and (vii).

251. A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration-

- a. That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;
- b. That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's program with respect to individuals with disabilities; or
- c. That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control or are agencies of the same State.

28 C.F.R. § 35.130(b)(3).

252. A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability. 28 C.F.R. § 35.130(b)(6).

253. A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. § 35.130(b)(7).

254. A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. 28 C.F.R. § 35.130(d).

255. The LEA Defendants discriminated against the Plaintiff Students through their contractual arrangements with GHS to provide education services to LEA students with disabilities. Through GHS:

1           a.     The LEA Defendants provided the Plaintiff Students with  
2           educational aid, benefits and services that were not equal to those provided  
3           to students without disabilities;

4           b.     The LEA Defendants provided the Plaintiff Students with  
5           educational aid, benefits and services that did not afford equal opportunity to obtain  
6           the same result, to gain the same benefit, or to reach the same level of achievement  
7           as that provided to LEA students without disabilities;

8           c.     The LEA Defendants aided and perpetuated disability  
9           discrimination against the Plaintiff Students by providing significant state and federal  
10          financial assistance to GHS, which discriminated against LEA students on the basis  
11          of their disabilities by subjecting them to repeated physical and emotional abuse in  
12          response to predictable, disability-related behavior which did not constitute a clear  
13          and present danger to the safety of the students or others and which could have  
14          been addressed by less restrictive measures, including those outlined in the  
15          students' behavioral intervention plans;

16          d.     The LEA Defendants limited the Plaintiff Students from  
17          enjoying their right to a free public education in a safe placement, free from  
18          discrimination or abuse; and  
19

20          e.     The LEA Defendants used administrative methods-specifically  
21          the policies and practices of GHS regarding behavioral interventions-that subjected  
22          Plaintiff Students to disability discrimination and defeated or substantially impaired  
23          the objective of providing a free public education to the Plaintiff Students.  
24

25   256.     Moreover, the LEA Defendants directly discriminated against the Plaintiff  
26     Students by administering their public education program and local plans in a  
27     manner that resulted in placing and keeping students with disabilities in an unsafe,  
28

1 abusive educational placement. The LEA Defendants did not sufficiently-if at  
2 all-investigate, monitor, or supervise the placement. Nor did it acknowledge or direct  
3 GHS to correct its known violations of state and federal law against the Plaintiff  
4 Students. As a result, the Plaintiff Students were not afforded education services  
5 equal to those afforded to other students and were subject to disability  
6 discrimination and repeated physical and emotional abuse.

7 257. The LEA Defendants failed to make reasonable modifications to their  
8 program of providing special education services to children within the LEA, such that  
9 LEA students with disabilities would not be subject to discrimination and abuse in  
10 their educational placements. These modifications-meaningful investigations and  
11 evaluations of the NPS prior to placing an LEA student there and forceful oversight,  
12 investigation, and measures to ensure compliance with state and federal laws during  
13 the placement, including site visits and regular review of school and student records  
14 and BERs-would not have constituted a fundamental alteration in the LEAs'  
15 programs of providing educational services to their students.

16 258. GHS's use of restraints was so excessive in frequency, duration, force and  
17 purpose that any educator or monitoring official who personally observed the  
18 program for more than an hour would realize that the school and its staff had  
19 exceeded the legal bounds for emergency interventions and were physically abusing  
20 their students. However, the CDE and the LEAs ignored their legal duties to  
21 supervise and monitor the program and continued to re-certify GHS and place and  
22 leave vulnerable students in the school's care.

23 259. The LEA Defendants were deliberately indifferent to disability discrimination  
24 and abuse of which they knew or should have known had they taken seriously their  
25 duties to investigate and evaluate GHS prior to placing LEA students there; to  
26  
27  
28

1 supervise, monitor, investigate, and ensure the legal compliance of GHS during the  
2 placement; and to remove LEA students when it became clear that GHS was not a  
3 safe placement and was subjecting the students to physical and emotional abuse  
4 and discriminating against them on the basis of their disabilities.

5 260. Defendant CDE knew or should have known that: students with disabilities at  
6 nonpublic schools-including GHS-were being restrained frequently, for excessive  
7 periods of time, with excessive force, and in response to predictable,  
8 disability-related behavior that did not constitute a clear and present danger to the  
9 students' or others' safety; the types of restraints being used against children with  
10 disabilities were dangerous and have resulted in serious injury to and death of  
11 students with disabilities in response to behavior that was known to be a  
12 manifestation of the students' disabilities; that the particular disabilities of the  
13 children against whom these restraints were used made the restraints even more  
14 dangerous; and that the restraints were not only ineffective and contrary to the  
15 students' BIPs, but more often than not aggravated the students' behavioral  
16 problems.  
17

18 261. Defendant CDE discriminated against Plaintiffs on the basis of their  
19 disabilities by:

- 20 a. Abdicating its duties to supervise, monitor,  
21 investigate, train, and ensure legal compliance of  
22 nonpublic schools, including GHS, with laws designed  
23 to protect students with disabilities from discrimination  
24 and abuse;  
25 b. Failing to take even minimal measures to ensure  
26 statewide compliance with state and federal laws  
27 within nonpublic schools, including GHS;  
28 c. Administering its licensing program of  
certifying, monitoring, investigating and taking  
corrective action against nonpublic schools  
which provide educational services to children

with disabilities in a discriminatory, cursory, and indifferent manner;

- d. Failing to make reasonable modifications to its policies and practices regarding certification, monitoring, supervision, investigation, and legal compliance of nonpublic schools in light of repeated notifications from the U.S. Department of Education and other sources regarding the disproportionate use of restraints on children with disabilities and their tragic outcomes; and
- e. Completely abandoning its duty to monitor and supervise the use of emergency behavioral interventions in nonpublic schools under Cal. Ed. Code § 56521(b).

262. The CDE knew and was deliberately indifferent to the fact that children with disabilities were being restrained at far greater rates than children without disabilities and that the rates of restraint use were significantly higher at "nonpublic" schools such as GHS than at public schools. It took no action to strengthen its oversight and monitoring of nonpublic schools or laws restricting the use of physical interventions. The CDE knew and was deliberately indifferent to allegations that children with disabilities being improperly restrained at GHS and failed to conduct an emergency site visit when they had a substantial reason to believe that there was an immediate danger to the health, safety and welfare of students at GHS. The CDE did not conduct a real investigation or visit the school until after GHS staff killed a student by restraining him.

263. Defendants' actions and failures to act were a substantial factor in causing physical and emotional injuries to the Plaintiff Students as outlined above.

264. Plaintiffs seek compensatory damages and attorneys' fees and costs.

**FIFTEENTH CLAIM FOR RELIEF**  
**Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

Thomas, V.M. and Jordan V.M. vs CDE,  
Rocklin Unified Schools, and Placer County SELPA

1 265. Plaintiffs incorporate by reference all preceding paragraphs

2 266. Section 504 prohibits entities that receive federal financial assistance from  
3 denying persons with disabilities the benefits of their programs, services or activities  
4 or otherwise discriminate against them on the basis of their disabilities. 29 U.S.C. §  
5 794; 34 C.F.R. pt. 104.  
6

7 267. Thomas V.M. and Jordan V.M. were at all relevant times students with  
8 disabilities who had been placed at GHS by the LEAs in which they resided via their  
9 IEPs.  
10

11 268. The CDE and the LEA Defendants receive federal financial assistance to  
12 provide special education services to children with disabilities in California. 20  
13 U.S.C. §§ 1411-1413.

14 269. Defendant GHS was a "nonpublic school" that contracted with the LEA  
15 Defendants to provide educational services to students with disabilities, including  
16 the Plaintiff Students, on behalf of the LEA Defendants in exchange for the state  
17 and federal financial assistance provided to the LEA Defendants to perform those  
18 services. Cal. Ed. Code § 56365. Section 504 therefore applies to GHS. 34 C.F.R.  
19 § 104.2 ("This part applies to each recipient of Federal financial assistance from the  
20 Department of Education and to the program or activity that receives such  
21 assistance.").

22  
23 270. Section 504 prohibits recipients of federal financial assistance from directly or  
24 through contractual, licensing, or other arrangements, on the basis of disability:

25 a. Denying a qualified person with a disability the  
26 opportunity to participate in or benefit from the  
27 aid, benefit or service;  
28

- b. Affording a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- c. Providing a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others;
- d. Aiding or perpetuating discrimination against a qualified person with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to the beneficiaries of the recipients' program or activity;
- e. Otherwise limiting a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

C.F.R. 104.4(b)(1)(i)(ii)(iii)(v) and (vii).

271. Section 504 prohibits recipients of federal financial assistance from directly or through contractual or other arrangements, utilizing criteria or methods of administration:

- a. That have the effect of subjecting persons with disabilities to discrimination on the basis of their disabilities;
- b. that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the recipient's program or activity with respect to persons with disabilities; or
- c. That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

C.F.R. § 104.4(b)(4).

272. GHS engaged in deliberate discrimination against the Plaintiff Students on the basis of their disabilities. GHS and its staff subjected the Plaintiff Students to illegal,

excessive and harmful restraints in response to known, disability-related behaviors that did not constitute a clear and present danger to the safety of the students or others and that could have been addressed by less restrictive measures, including those outlined in the students' BIPs. GHS discriminated against the Plaintiff Students by:

- a. Denying them the opportunity to participate in educational services free from physical and emotional abuse;
- b. Providing them educational services that were not equal to or as effective as those afforded to children without disabilities;
- c. Preventing students with disabilities from enjoying their rights to receive a free, public education and the benefits that come with it in an environment free from physical and emotional abuse; and
- d. Administration methods, particularly those regarding behavioral interventions-that subjected students to disability discrimination and that defeated and/or substantially impaired the accomplishment of the students' educational objectives.

273. The LEA Defendants discriminated against the Plaintiff Students through their contractual arrangements with GHS to provide education services to LEA students with disabilities by:

- a. Denying them the opportunity to participate in educational services free from physical and emotional abuse;
- b. Providing them educational services that were not equal to or as effective as those afforded to children without disabilities;
- c. Preventing students with disabilities from enjoying their rights to receive a free, public education and the benefits that come with it in an environment free from physical and emotional abuse; and
- d. Using administration methods, particularly those regarding behavioral interventions-that subjected students to disability discrimination and that defeated and/or substantially impaired the accomplishment of the students' educational objectives.

274. The LEA Defendants aided and perpetuated disability discrimination against the Plaintiff Students by providing significant state and federal financial assistance

1 to GHS, which discriminated against LEA students on the basis of their disabilities  
2 by subjecting them to repeated physical and emotional abuse in response to  
3 predictable, disability-related behavior which did not constitute a clear and present  
4 danger to the safety of the students or others and which could have been addressed  
5 by less restrictive measures, including those outlined in the students' behavioral  
6 intervention plans.

7 275. Moreover, the LEA Defendants directly discriminated against the Plaintiff  
8 Students by administering their public education program and local plans in a  
9 manner that resulted in placing and keeping students with disabilities in an unsafe,  
10 abusive educational placement. The LEA Defendants did not sufficiently-if at  
11 all-investigate, monitor, or supervise the placement. Nor did they acknowledge or  
12 direct GHS to correct its known violations of state and federal law against the  
13 Plaintiff Students. As a result, the Plaintiff Students were not afforded education  
14 services equal to those afforded to other students and were subject to disability  
15 discrimination and repeated physical and emotional abuse.  
16

17 276. GHS's use of restraints was so excessive in frequency, duration, force and  
18 purpose that any educator or monitoring official who personally observed the  
19 program for more than an hour would realize that the school and its staff had  
20 exceeded the legal bounds for emergency interventions and were physically abusing  
21 their students. However, the CDE and the LEAs ignored their legal duties to  
22 supervise and monitor the program and continued to re-certify GHS and place and  
23 leave vulnerable students in the school's care.  
24

25 277. The LEA Defendants were deliberately indifferent to disability discrimination  
26 and abuse of which they knew or should have known had they taken seriously their  
27 duties to investigate and evaluate GHS prior to placing LEA students there; to  
28

1 supervise, monitor, investigate, and ensure the legal compliance of GHS during the  
2 placement; and to remove LEA students when it became clear that GHS was not a  
3 safe placement and was subjecting the students to physical and emotional abuse  
4 and discriminating against them on the basis of their disabilities.

5 278. Defendant CDE knew or should have known that: students with disabilities at  
6 nonpublic schools-including GHS-were being restrained frequently, for excessive  
7 periods of time, with excessive force, and in response to predictable,  
8 disability-related behavior that did not constitute a clear and present danger to the  
9 students' or others' safety; the types of restraints being used against children with  
10 disabilities were dangerous and have resulted in serious injury to and death of  
11 students with disabilities in response to behavior that was known to be a  
12 manifestation of the students' disabilities; that the particular disabilities of the  
13 children against whom these restraints were used made the restraints even more  
14 dangerous; and that the restraints were not only ineffective and contrary to the  
15 students' BIPs, but more often than not aggravated the students' behavioral  
16 problems.  
17

18 279. Defendant CDE discriminated against Plaintiffs on the basis of their  
19 disabilities by:

- 20 a. Abdicating its monitoring, investigation and compliance duties  
21 with regard to nonpublic schools, including GHS;
- 22 b. Failing to take even minimal measures to ensure statewide  
23 compliance with state and federal laws within nonpublic  
24 schools, including GHS;
- 25 c. Administering its licensing program of certifying, monitoring,  
26 investigating and taking corrective action against nonpublic  
27 schools which provide educational services to children with  
28 disabilities in a discriminatory, cursory, and indifferent manner;
- d. Failing to make reasonable modifications to its policies and  
practices regarding certification, monitoring, supervision,

investigation, and compliance of nonpublic schools in light of repeated notifications from the U.S. Department of Education regarding the disproportionate use of restraints on children with disabilities and their tragic outcomes; and

- e. Completely abandoning its duty to monitor and supervise the use of emergency behavioral interventions in nonpublic schools under Cal. Ed. Code § 56521(b).

280. The CDE knew and was deliberately indifferent to the fact that children with disabilities were being restrained at far greater rates than children without disabilities and that the rates of restraint use were significantly higher at "nonpublic" schools such as GHS than at public schools. It took no action to strengthen its oversight and monitoring of nonpublic schools or laws restricting the use of physical interventions. The CDE knew and was deliberately indifferent to allegations that children with disabilities were being improperly restrained at GHS and failed to conduct an emergency site visit when they had a substantial reason to believe that there was an immediate danger to the health, safety and welfare of students at GHS. The CDE did not conduct a real investigation or visit the school until after GHS staff killed a student by restraining him.

281. Defendants actions and failures to act were a substantial factor in causing physical and emotional injuries to the Plaintiff Students as outlined above.

282. Plaintiffs seek compensatory damages and attorneys' fees and costs.  
283.

#### **SIXTEENTH CLAIM FOR RELIEF**

#### **42 U.S.C. § 1983, Fourth Amendment to the U.S. Constitution**

Marques against GHS, MEYER, KELLER, RAMSEY, SZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS, BRUCE, and DOE defendants; Thomas, V.M. and Jordan V.M. against GHS, POINT QUEST, , Staranne MEYERS, Cindy KELLER, David CHAMBERS, Noel COLLIER, Patricia DOE, David DOE, Amanda DOE, Cara BRUCE, Ashley ROB, Dolores ZUMBURY, Vince ANDERSON and Noelle DOE; Kristi GREGERSEN, Troy TICKLE, Bill TOLLESTRUP, Bill WEBBER, Nicole DOE; Kristain ROYER, Beth DAVIDSON, DOES 1-100.

284. Plaintiffs incorporate by reference all preceding paragraphs.

285. Defendants GHS, MEYER, KELLER, RAMSEY, SZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS, BRUCE, POINT QUEST, , Staranne MEYERS, Cindy KELLER, David CHAMBERS, Noel COLLIER, Patricia DOE, David DOE, Amanda DOE, Cara BRUCE, Ashley ROB, Dolores ZUMBURY, Vince ANDERSON and Noelle DOE; Kristi GREGERSEN, Troy TICKLE, Bill TOLLESTRUP, Bill WEBBER, Nicole DOE; Kristain ROYER, Beth DAVIDSON, DOES 1-100. used excessive force against Marques, Thomas, V.M. and Jordan V.M. when they restrained them in response to predictable, disability-related behavior that did not constitute a clear and present danger to Marques, Thomas, V.M. and Jordan V.M. 's or others' safety and that could have been addressed by less restrictive measures, including those outlined in their BIPs. Defendants' use of force was objectively unreasonable in light of Marques, Thomas, V.M. and Jordan V.M. 's behavior and California law restricting the use of physical interventions. Defendants' use of restraints was also unreasonable in their frequency, duration, pressure and restrictions applied, lack of monitoring of Marques, Thomas, V.M. and Jordan V.M. health condition, and the pain and injuries caused to Marques, Thomas, V.M. and Jordan V.M.

286. Defendants GHS, MEYER, KELLER, RAMSEY, SZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS, BRUCE, POINT QUEST, , Staranne MEYERS, Cindy KELLER, David CHAMBERS, Noel COLLIER, Patricia DOE, David DOE, Amanda DOE, Cara BRUCE, Ashley ROB, Dolores ZUMBURY, Vince ANDERSON and Noelle DOE; Kristi GREGERSEN, Troy TICKLE, Bill TOLLESTRUP, Bill WEBBER, Nicole DOE; Kristain ROYER, Beth DAVIDSON, DOES 1-100 violated the Plaintiff Students' Fourth Amendment rights when they instituted and maintained a policy and practice at GHS of restraining students in

1 response to predictable, disability-related behavior that did not constitute a clear  
2 and present threat to the students' or others' safety and that could have been  
3 addressed by less restrictive interventions, such as those outlined in students'  
4 BIPs.

5 287. Defendants GHS, MEYER, KELLER, RAMSEY, SZOMBURY, ANDERSON,  
6 ROBB, BRUCE, CORY, BRYNA, CHAMBERS, BRUCE, POINT QUEST, Staranne  
7 MEYERS, Cindy KELLER, David CHAMBERS, Noel COLLIER, Patricia DOE,  
8 David DOE, Amanda DOE, Cara BRUCE, Ashley ROB, Dolores ZUMBURY, Vince  
9 ANDERSON and Noelle DOE; Kristi GREGERSEN, Troy TICKLE, Bill  
10 TOLLESTRUP, Bill WEBBER, Nicole DOE; Kristain ROYER, Beth DAVIDSON,  
11 DOES 1-100 were acting under color of state law when they instituted and  
12 practiced a policy of restraining students, including the Plaintiff Students, in  
13 response to predictable, disability-related behavior that did not constitute a clear  
14 and present threat to the students' or others' safety and that could have been  
15 addressed by less restrictive interventions, such as those outlined in students'  
16 BIPs.

17  
18 288. Defendants GHS and POINT QUERST were performing a public function  
19 that the LEA Defendants were legally required to provide and for which they were  
20 receiving state and federal funds-that of providing free educational services,  
21 including special education, to the Plaintiff Students. If an LEA does not have an  
22 appropriate special education placement within its district, it may place a student in  
23 a nonpublic school. Cal. Ed. Code § 56365. In turn, the student "will be deemed to  
24 be enrolled in public schools" for the purpose of state and federal funding. Cal. Ed.  
25 Code § 56365(b). However, the LEAs are to monitor and supervise the placement  
26 and transition the student back to the public schools if the NPS is no longer  
27  
28

appropriate to meet the student's needs. Cal. Ed. Code § 56366(a)(2)(B). The LEA continues to be responsible for the child's placement and special education needs and must participate in their IEP meetings. 20 U.S.C. § 1414(d)(1)(B)(iv).

289. The Plaintiff Students were placed and kept at GHS by the LEA Defendants pursuant to their IEPs. GHS had a Master Contract with each of the Defendant LEAs to provide education services to the Plaintiff Students.

290. GHS and POINT QUEST sent BERs to the LEA Defendants demonstrating the excessive and illegal nature of the restraints, but this information was filed away and ignored. The IEP teams, in which the LEA Defendants participated, did not review and modify students' BIPs when it was clear they were ineffective or not being followed. Despite knowing that their students were being illegally restrained by GHS staff, the LEA Defendants left the Plaintiff Students at the school and did not take any action to stop the restraints. Because they were unable and unwilling to provide the educational services themselves, the LEA Defendants ignored and thereby allowed the violations of Plaintiffs' constitutional rights, knowingly accepting the benefits of GHS's illegal behavior.

291. At all times relevant to the complaint, the individual GHS and POINT QUEST Defendants were acting in the performance of their official duties to provide educational services, including special education services, to the Plaintiff Students pursuant to state and federal law and GHS's contract with the LEA Defendants.

292. The GHS and POINT QUEST Defendants knowingly deprived the Plaintiff Students of their Fourth Amendment rights to be free from excessive force.

293. Defendants GHS, MEYERS, Cindy KELLER, David CHAMBERS, Noel COLLIER, Patricia DOE, David DOE, Amanda DOE, Cara BRUCE, Ashley ROB, Dolores ZUMBURY, Vince ANDERSON and Noelle DOE; Bill TOLLESTRUP, Bill

WEBBER, Nicole DOE; , DOES 1-100, deprived Plaintiffs Thomas and Jordan V.P. of their Fourth Amendment rights to be free from excessive force. As administrators of the PLACER COUNTY SELPA Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON administrators for ROCKLIN UNIFIED SCHOOLS, were responsible for overseeing the Plan's implementation, which included: 1) coordinating with school districts to ensure that all special education students in the Plan area have equal access to the full continuum of programs and services; 2) working with the school districts to identify unmet student needs and resources to meet those needs; 3) receiving, distributing, and monitoring the use of special education funding; 4) entering into Master Contracts with nonpublic schools, reviewing and monitoring those contracts, issuing and monitoring the assurances for those contracts, and maintaining updated contracts; and 5) submitting for approval to the Superintendents' Council policies and procedures governing regional and District-operated programs, including nonpublic schools. As administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON administrators for ROCKLIN UNIFIED SCHOOLS had a duty to monitor GHS as a nonpublic school with which it had a Master Contract to provide services for students in the Plan area. They also had a duty to monitor the use of special education funding and ensure that it was not going to programs that used behavioral interventions that violated state or federal law. Cal. Ed. Code §§ 56521.2, 56523(d).

294. GHS, MEYER, KELLER, RAMSEY, SZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS, BRUCE, and DOE defendants deprived Plaintiff Marques of his Fourth Amendment rights to be free from excessive force.

295. Despite widespread knowledge within the educational community about the disproportionate use of excessive, illegal and dangerous restraints on children with disabilities and in nonpublic schools, as administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were deliberately indifferent to the Fourth Amendment rights of students in the YOLO SELPA plan area to be free from excessive force. They maintained a policy and practice within YCOE and YOLO SELPA of ignoring their duties to monitor GHS and ensure that it was complying with state and federal laws prohibiting discrimination and restricting the use of physical behavior interventions.

296. From media reports, U.S. Department of Education publications and letters, and reports published by nonprofits advocating for students with disabilities, it was well-known within the educational community that children with disabilities were being subjected to illegal restraints at a greater rate than those without disabilities and that nonpublic schools restrained students at higher rates. As administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were deliberately indifferent to this information and failed to implement policies and procedures for training, monitoring and supervision of nonpublic school placements. Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON failed to supervise and train staff to ensure that they understood the laws preventing illegal restraints and were adequately monitoring the NPS placements of PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOL students to ensure that they were not being subjected to excessive force.

297. At all times relevant to the complaint, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON were acting under color of state law in the performance of their official duties as administrators for public entities, PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOLS.

298. Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON's actions and failures to act were a substantial factor in causing Thomas and Jordan V.M.'s physical and emotional pain and suffering.

299. Defendants and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS

300. Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS deprived Jordan V.M. of their Fourth Amendment rights to be free from excessive force. RUSD and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were responsible for the coordination of special education services and programs within the RUSD and the implementation of the PLACER COUNTY SELPA plan. This included assuring that the District's programs-including any nonpublic school in which the District has placed a special education student-did not discriminate against children on the basis of disability and followed state and federal education laws, including those prohibiting the use of excessive force against students. DAVIDSON was the direct supervisor of Defendant ROYER, the RUSD Program Specialist assigned to Jordan V.M.. ROYER was responsible for developing Jordan's IEP, ensuring that Jordan's educational placement at POINT QUEST was appropriate, monitoring the delivery of services to Jordan, and ensuring that the program in which Jordan had been placed complied with state and federal laws, including those related to the use of behavioral interventions and use of physical force. ROYER was also

1 responsible for coordinating and monitoring the implementation of educational  
2 programs and services at nonpublic schools at which RUSD students had been  
3 placed.

4 301. Throughout Jordan's's placement at POINT QUEST, ROYER and  
5 DAVIDSON received information and documents demonstrating that POINT  
6 QUEST was subjecting Jordan to excessive force. Specifically, POINT QUEST  
7 staff was placing Jordan in illegal restraints POINT QUEST in response to  
8 predictable, disability-related behaviors which did not pose a clear and present  
9 danger to the safety of the student or others and could have been addressed by  
10 less restrictive interventions. This information included, but was not limited to,  
11 Behavior Emergency Reports, information provided by POINT QUEST staff at  
12 Jordan's IEP meetings, and documents accompanying Jordan's IEP meetings.

13 302. ROYER AND DAVIDSON were deliberately indifferent to the knowledge that  
14 POINT QUEST was subjecting Jordan to excessive force. Defendants did nothing  
15 to investigate POINT QUEST to stop the restraints, or remove to a safe, approved  
16 placement.

17 303. From media reports, U.S. Department of Education publications and letters,  
18 and reports published by nonprofits advocating for students with disabilities, it was  
19 well-known within the educational community that children with disabilities were  
20 being subjected to illegal restraints at a greater rate than those without disabilities  
21 and that nonpublic schools restrained students at higher rates. As administrators  
22 for ROCKLIN UNIFIED SCHOOLS, Kristain ROYER, Beth DAVIDSON, deprived  
23 Jordan V.M. was deliberately indifferent to this information and failed to implement  
24 policies and procedures for training, monitoring and supervision of nonpublic school  
25 placements. DAVIDSON failed to supervise and train the program specialists  
26  
27  
28

working under her to ensure that they understood the laws preventing illegal restraints and were adequately monitoring the NPS placements of RUSD students to ensure that they were not being subjected to excessive force.

304. At all times relevant to the complaint, Kristain ROYER, Beth DAVIDSON were acting under color of state law in the performance of their official duties for public entity RUSD.

305. Kristain ROYER, Beth DAVIDSON's actions and failures to act were a substantial factor in causing Jordan's physical and emotional pain and suffering.

306. GHS, MEYER, KELLER, RAMSEY, SZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS, BRUCE, and DOE defendants' actions and failures to act were a substantial factor in causing Marques' physical and emotional pain and suffering.

#### **DAMAGES**

WHEREFORE, Plaintiffs pray for judgment against Defendants, as follows:

#### **FIRST CAUSE OF ACTION INTERFERENCE WITH THE EXERCISE OF CIVIL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTIONS 51et seq**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;

7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SECOND CAUSE OF ACTION  
INTERFERENCE WITH PLAINTIFFS' EXERCISE OF CIVIL RIGHTS IN VIOLATION  
OF CALIFORNIA CIVIL CODE SECTION 51.7**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**THIRD CAUSE OF ACTION  
INTERFERENCE WITH PLAINTIFFS' EXERCISE OF  
CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1**

1. General damages for in an amount to be determined according to proof at trial;

2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FOURTH CAUSE OF ACTION  
VIOLATIONS OF CALIFORNIA EDUCATION CODE  
§§ 200, 201, 220 and 260, et seq.**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;

9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FIFTH CAUSE OF ACTION  
ASSAULT AND BATTERY CONSTITUTING TORTURE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SIXTH CAUSE OF ACTION  
ASSAULT AND BATTERY**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;

4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SEVENTH CAUSE OF ACTION  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**EIGHTH CAUSE OF ACTION**

**FALSE IMPRISONMENT, CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**NINTH CAUSE OF ACTION  
NEGLIGENCE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress;
6. Pain and suffering;

7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**TENTH CAUSE OF ACTION  
NEGLIGENT SUPERVISION**

General damages for Pain and suffering in an amount to be determined according to proof at trial;

2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**ELEVENTH CAUSE OF ACTION  
NEGLIGENCE *PER SE***

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;

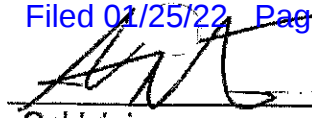
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**TWELFTH CAUSE OF ACTION  
Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**THIRTEENTH CAUSE OF ACTION  
FRAUD**

Dated: September 20, 2021

  
Seth L. Goldstein,  
Attorney at Law

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## Rocklin Unified School District

2615 Sierra Meadows Drive • Rocklin, CA 95677

Phone • (916) 624-2428 Fax • (916) 624-7246



Roger Stock, Superintendent  
Kathleen Pon, Deputy Superintendent

Barbara Patterson, Deputy Superintendent  
Tony Limoges, Associate Superintendent

May 8, 2020

Seth L. Goldstein  
Law Offices of Seth Goldstein  
2100 Garden Road, Suite H-8  
Monterey, CA 93940

RE: CLAIM FOR PERSONAL INJURY OR PROPERTY DAMAGE BY Gloria Van Maren

Dear Mr. Goldstein:

### NOTICE OF REJECTION OF CLAIM

NOTICE IS HEREBY GIVEN that the claim which you presented to the Rocklin Unified School District dated March 24, 2020 and received on March 30, 2020 was rejected on May 6, 2020.

### WARNING

Subject to certain exceptions, you have only six (6) months from the date that this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section, 945.6.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult with an attorney, you should do so immediately.

Nothing herein, nor any action taken by this school district of any or its officers, employees, or agents with regard to the above-referenced matter should be construed as a relinquishment or waiver of any legal requirement or any right or defense such as timeliness, sufficiency, proper presentation of any other matter which may be available to the Rocklin Unified School District or any of its officers, employees, or agents.

Please also be advised that, pursuant to Sections 128.5 and 1038 of the California Code of Civil Procedure, the Rocklin Unified School District will seek to recover all costs of defense in the event an action is filed in the matter and it is determined that the action was not brought in good faith and with reasonable cause.

Sincerely,

Barbara Patterson

## Rocklin Unified School District

2615 Sierra Meadows Drive • Rocklin, CA 95677

Phone • (916) 624-2428 Fax • (916) 624-7246



Roger Stock, Superintendent  
Kathleen Pon, Deputy Superintendent

Barbara Patterson, Deputy Superintendent  
Tony Limoges, Associate Superintendent

May 8, 2020

Seth. L. Goldstein  
Law Offices of Seth Goldstein  
2100 Garden Road, Suite H-8  
Monterey, CA 93940

RE: CLAIM FOR PERSONAL INJURY OR PROPERTY DAMAGE BY Thomas Van Maren a minor  
by and through his mother and legal guardian Gloria Van Maren

Dear Mr. Goldstein:

### NOTICE OF REJECTION OF CLAIM

NOTICE IS HEREBY GIVEN that the claim which you presented to the Rocklin Unified School District dated March 24, 2020 and received on March 30, 2020 was rejected on May 6, 2020.

### WARNING

Subject to certain exceptions, you have only six (6) months from the date that this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section, 945.6.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult with an attorney, you should do so immediately.

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Please also be advised that, pursuant to Sections 128.5 and 1038 of the California Code of Civil Procedure, the Rocklin Unified School District will seek to recover all costs of defense in the event an action is filed in the matter and it is determined that the action was not brought in good faith and with reasonable cause.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Patterson".

Barbara Patterson

## Rocklin Unified School District

2615 Sierra Meadows Drive • Rocklin, CA 95677

Phone • (916) 624-2428 Fax • (916) 624-7246



Roger Stock, Superintendent  
Kathleen Pon, Deputy Superintendent

Barbara Patterson, Deputy Superintendent  
Tony Limoges, Associate Superintendent

May 8, 2020

Seth L. Goldstein  
Law Offices of Seth Goldstein  
2100 Garden Road, Suite H-8  
Monterey, CA 93940

RE: CLAIM FOR PERSONAL INJURY OR PROPERTY DAMAGE BY Jordan Van Maren a minor  
by and through his mother and legal guardian Gloria Van Maren

Dear Mr. Goldstein:

### NOTICE OF REJECTION OF CLAIM

NOTICE IS HEREBY GIVEN that the claim which you presented to the Rocklin Unified School District dated March 24, 2020 and received on March 30, 2020 was rejected on May 6, 2020.

### WARNING

Subject to certain exceptions, you have only six (6) months from the date that this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section, 945.6.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult with an attorney, you should do so immediately.

Nothing herein, nor any action taken by this school district of any or its officers, employees, or agents with regard to the above-referenced matter should be construed as a relinquishment or waiver of any legal requirement or any right or defense such as timeliness, sufficiency, proper presentation of any other matter which may be available to the Rocklin Unified School District or any of its officers, employees, or agents.

Please also be advised that, pursuant to Sections 128.5 and 1038 of the California Code of Civil Procedure, the Rocklin Unified School District will seek to recover all costs of defense in the event an action is filed in the matter and it is determined that the action was not brought in good faith and with reasonable cause.

Sincerely,

Barbara Patterson

**FILED**

AUG 09 2021

EL DORADO CO. SUPERIOR COURT  
BY *Kerry J. Warden*  
(DEPUTY CLERK)

1 **SETH L. GOLDSTEIN, S.B.N. 176882**  
2 2100 Garden Road, Suite H-8  
3 Monterey, California 93940  
4 Telephone: (831) 372-9511  
5 Facsimile: (831) 372-9611  
6 Lead-Counsel for Plaintiffs

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **COUNTY OF EL DORADO**

9 In the Matter of:

Case No.: **PC2020049** *PC 20200429*

10 **MARQUES, et al.,**

**ORDER AFTER HEARING**

11 Plaintiffs,

12 v.

13 **GUIDING HANDS SCHOOL, INC., ET AL.,**

14 Defendants

15  
16  
17 The request for order or notice of motion of Louie Andreas Marques of admission pro  
18 hac vice in the above-entitled case came on regularly for hearing on 7/23/21 in Department 4 of  
19 the above-entitled Court located at 1354 Johnson Blvd. the Honorable Judge Michael J.  
20 McLaughlin, presiding.  
21

22 In reading the application of Louis Andreas Marques and good cause appearing therefore:

23 It is ordered that the motion admission pro hac vice is granted on July 23, 2021.

24  
25 Dated: *8/9/2021*

26  
27   
28 Judicial Officer  
Michael J. McLaughlin

**CMS**

**AUG 10 2021** *ww*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

MINUTE ORDER

CASE NO: PC20200429  
DATE: 07/23/21

LOUIE ANDREAS MARQUES vs GUIDING HANDS SCHOOL  
TIME: 1:30 DEPT: 4

HEARING: MOTION RE: FOR ADMISSION PRO HAC VICE BY MERIT BENNETT  
FILED BY LOUIE ANDREAS MARQUES, GLORIA V M, THOMAS V M, JORDAN V  
M

---

Honorable Judge MICHAEL J. MCLAUGHLIN presiding. Clerk: Shannon R.  
Alexander. Court Reporter: LISA MENDEL CSR 14353. Bailiff: C.  
BRADFORD

No appearance is made by any parties herein or their counsel of  
record.

Case is regularly called for hearing.

Motion for Admission Pro Hac Vice is read and considered.

Court confirms receipt of the state bar appellant.

THE COURT ORDERS:

Motion Granted.

Order to be prepared by lead counsel for the Plaintiff's - Seth  
Goldstein, Esq.

cc: SETH GOLDSTEIN, ESQ., 2100 GARDEN RD, STE H8, MONTEREY, CA 93940

**Subject:** Fwd: Pro Hac Vice Application Approval Notice

**From:** Merit Bennett <mb@thebennettlawgroup.com>

**Date:** 7/22/2021, 11:51 AM

**To:** Seth Goldstein <slglawoffice@gmail.com>, Alexandria Guthrie <ag@thebennettlawgroup.com>, Donna Valdes <dv@thebennettlawgroup.com>

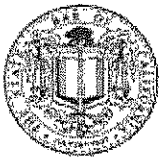
----- Forwarded Message -----

**Subject:** Pro Hac Vice Application Approval Notice

**Date:** Thu, 22 Jul 2021 17:27:37 +0000 (GMT)

**From:** State Bar of California - Special Admissions <special.admissions@calbar.ca.gov>

**To:** mb@thebennettlawgroup.com <mb@thebennettlawgroup.com>



The State Bar  
of California

OFFICE OF ADMISSIONS

**Application's Case Number:** 00702809

**Trial Case Name:** Marquez v. Guiding Hands School, Inc. et al.

**Trial Case Number:** PC2020049

Dear Merit Bennett,

Your Pro Hac Vice application has been successfully filed and approved with the State Bar of California, Office of Admissions.

The successful filing of this application is restricted to the above case only.

Any future documents relating to this particular case must be provided to the State Bar by responding directly to this email, with the document(s) attached. Please do not mail any physical documents to the Admissions office.

If you have any questions regarding this matter, please contact the Special Admissions department at the number below.

Sincerely,

Office of Admissions  
State Bar of California  
(415) 538-2300

ref:\_00Dt0TZax\_500t0oOdLk:ref

CMS  
JUL 21 2021  
Exhibit F

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, and Address): Seth L. Goldstein SBN#176882 2100 Garden Road, Suite H-8 Monterey, CA 93940  TELEPHONE NO.: FAX NO.: 831-372-9611 EMAIL ADDRESS:		FOR COURT USE ONLY  <b>FILED</b>  SEP 21 2021  EL DORADO CO. SUPERIOR COURT BY <u>Nancy J. Warden</u> (DEPUTY CLERK)
SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO  MAILING ADDRESS: 1354 Johnson Blvd.  CITY AND ZIPCODE South Lake Tahoe 96150		
PETITIONER/PLAINTIFF: LOUIE ANDREAS MARQUES  RESPONDENT/DEFENDANT: GUIDING HANDS SCHOOL		CASE NUMBER: PC20200429
<b>APPLICATION FOR VIDEOCONFERENCE APPEARANCE AND ORDER</b>		

1. Person(s) requesting to appear by videoconference is/are:

<input type="checkbox"/> Petitioner/Plaintiff	Name:	Email:	Telephone:
<input type="checkbox"/> Respondent/Defendant	Name:	Email:	Telephone:
Counsel for (select)	Name:	Email:	Telephone:
<input checked="" type="checkbox"/> Petitioner/Plaintiff or	Louie Andreas Marques	slglawoffice@gmail.com	831-372-9511
<input type="checkbox"/> Respondent/Defendant			
<input type="checkbox"/> Other	Name:	Email:	Telephone:

2. For Counsel, if requesting on client's behalf:

☒ My client has consented and authorized me to make this request on their behalf.

☒ I confirm that a means to communicate privately and confidentially has been established and reviewed by both the attorney and party if both are attending the conference, hearing or proceeding remotely.

3. Certain case types are permitted to be heard by videoconferencing. The conference, hearing or proceeding is for (describe):  
Case Management Conference

4. Videoconference appearance is requested for following reason(s):  
I am not local, I live over 4 hours away.

5. The matter is set on (date): 9/28/21 at (time): 3:30pm in Department: 4

6. Notice of this request was provided to (attach a page with additional names to this form if needed):

Name	Role	How Notice Provided	Date Noticed

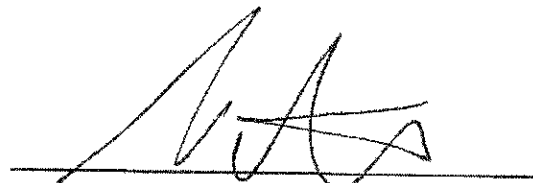
7. By signing below, I agree to the following:

- I understand and agree that when appearing by videoconference, I may not receive assistance from anyone other than counsel, an interpreter or an individual appointed by or approved by the Court.
- I understand and agree that appearance by videoconference is the same as in-person appearance and any actions that occur in the hearing carry the same authority as if all individuals were physically in the courtroom.
- I understand if I am not connected at the time the case is called, the Court may consider it a failure to appear and the matter may be dropped from calendar.
- I understand that the court, in its discretion, may decide to terminate the videoconference appearance if there is a delay due to disruption, noise, misconduct, a communication problem, a technical problem, other issue and/or in the interest of justice.
- I understand that a failure to appear or termination of the videoconference appearance may result in the issuance of a warrant, a requirement that I appear in-person and/or a continuance of the conference, hearing or proceeding.
- I understand the Court may decide, at any time, to require a personal appearance and/or a continuance of the conference, hearing or proceeding.
- I understand that except as provided in California Rule of Court, rule 1.150, court proceedings shall not be photographed, recorded or broadcast. Violators may be cited for contempt of court, or monetary sanctions may be imposed.

Dated: 9/20/21

Seth L. Goldstein

Printed Name

  
Signature

**FOR COURT USE ONLY**

By Judicial Officer: The request for a videoconference appearance is ☐ GRANTED ☒ DENIED

Dated: 9/21/21

  
Judicial Officer

Michael J. McLaughlin

*CMCs authorized for V Court not Zoom*  
Notice of this order along with the videoconference information was provided by email to the person(s) listed in item 1 on:

Dated: 9/22/21

  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF EL DORADO

[ ] 2850 FAIRLANE COURT  
Placerville, CA 95667  
(530) 621-7470  
[ ] 495 Main Street  
Placerville, CA 95667  
(530) 621-6726

[X] 1354 JOHNSON BLVD.  
South Lake Tahoe, CA 96150  
(530) 573-3069  
[ ] 3321 Cameron Park Dr.  
Cameron Park, CA 95682  
(530) 621-5867

09/22/21

Case PC20200429

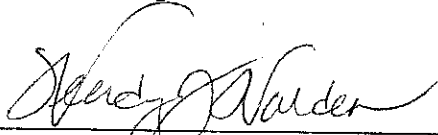
Dear Mr. Goldstein,

RE: NOTICE TELEPHONIC APPEARANCE IS GRANTED

The court has received your request for a telephonic appearance. Due to the distance from where you reside and the location of the court, the request is granted.

Telephonic court appearances are provided through the court. To set up your appearance please go to the court's website at <http://www.eldoradocourt.org/online services/vcourt.html>. If you cannot afford the fee you may request a fee waiver which you must submit to the court at least 5 days prior to the hearing.

Sincerely,

  
Deputy Clerk

Court Website: <http://www.eldoradocourt.org/> <sup>eldoradocourt3.ca.gov</sup>

TAG

Revised 06/14/2010

Exhibit F

Seth L. Goldstein, S.B.N. 176882  
2100 Garden Road, Suite H-8  
Monterey, California, 93940  
Telephone (831) 372 9511  
Fax (831) 372 9611

Lead-Counsel for Plaintiffs

**SCANNED**  
**FILED**

OCT 19 2021

EL DORADO CO. SUPERIOR COURT  
BY Sherry J. Stander  
(DEPUTY CLERK)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO**

In the Matter of:

_____	)	Case No.: FC202429
	)	
Louie Andreas MARQUES, Gloria V.M.,	)	
Thomas V.M., and Jordan V.M.,	)	
	)	FIRST AMENDED
Plaintiffs	)	PLAINTIFF'S NOTICE OF
vs	)	MOTION AND MOTION FOR
	)	LEAVE TO FILE SECOND
	)	AMENDED COMPLAINT;
GUIDING HANDS SCHOOL, Inc.(hereinafter	)	MEMORANDUM OF POINTS
"GHS"),Jennifer GALAS, Staranne	)	AND AUTHORITIES
MEYERS, Cindy KELLER, David	)	
CHAMBERS, STATE OF CALIFORNIA,	)	
DEPARTMENT OF EDUCATION, PLACER	)	Judge: Hon. Michael J. McLaughlin
COUNTY SELPA, Cara BRUCE, Ashley ROB,	)	Date: 10-22-21
Dolores ZUMBURY, Vince ANDERSON,	)	Time: 1:30 pm
POINT QUEST, Inc., ROCKLIN UNIFIED	)	Dept. 4
SCHOOL DISTRICT, Noel COLLIER,	)	
Patricia DOE, David DOE, Amanda DOE, and	)	
Noelle DOE, ET AL	)	Original Complaint Filed: 8/27/20
	)	
Defendants.	)	
_____	)	

TO THIS HONORABLE COURT:

This matter is set for Oct. 22, 2021, at 1:30 pm, in Department 4, of this Court, located at 3321 Cameron Park Drive, Cameron Park, California 95682, Plaintiffs', Louie Andreas MARQUES, Gloria V.M., Thomas V.M. and Jordan V.M., by and through their attorneys, have asked this Court for an ORDER granting leave to file a Second Amended Complaint.

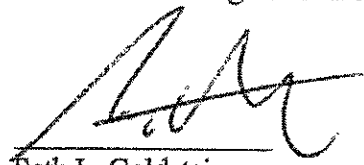
Exhibit Fw  
OCT 19 2021

1 We ask that the Court accept this amended motion and Second Amended Complaint,  
2 corrected for scrivener's errors omitting names of defendants and reformatting to make a  
3 necessarily long complaint more easily read.  
4

5 As discussed below, this motion is made on the grounds that good cause exists for  
6 granting Plaintiffs' leave to amend. Moreover, granting a leave to amend will not prejudice the  
7 rights of any of the Defendants given the stage of the litigation as no one has yet been served.

8 This motion is based on this Notice of Motion and Motion and the accompanying  
9 Memorandum of Points and Authorities, and on the papers and records on file herein, and on  
10 such oral and documentary evidence as may be presented at the hearing of the motion.  
11

12  
13 Dated: October 18, 2021

  
Seth L. Goldstein,  
Lead Counsel for Plaintiffs

I.  
INTRODUCTION

Plaintiff's, Louie Andreas MARQUES, Gloria V.M., Thomas V.M. and Jordan V.M., move to amend their Complaint and file a Second Amended Complaint (hereinafter "SAC"). The rights of Plaintiffs' have been impacted by the conduct of the defendants and the SAC seeks to include all Defendant's that Plaintiffs' recently became aware of and to include all available legal and equitable claims. There is no prejudice to the defendants to allow Plaintiffs' to amend their complaint.

The SAC includes the following changes: (1) According to the ruling in Federal Court, Bruce Chapman is not the owner of Handle with Care and should be dismissed with prejudice pending discovery. (2) Since the time of the filing of the First Amended Complaint and before it has been served, an additional Plaintiff family has come forward and in the interest of judicial economy and to reduce the costs to both the Defendant's; and (3) Additional Defendant's have been found and should be joined to this lawsuit. (4) Counsel for Defendant, Rocklin Unified School District has informally received the First Amended Complaint and pointed out an error in the pleadings. Plaintiff's seek to amend those errors to avoid an unnecessary Motion to Strike.

By this motion Plaintiffs' request that the Court order the attached SAC to be filed as proposed. The amendments are necessary in order to assert all claims on behalf of all Plaintiffs' and to correct all errors in the First Amended Complaint.

Defendants are not prejudiced by this amendment and the liberal policy in favor of amendments compels the granting of this motion.

II.  
MEMORANDUM OF POINTS AND AUTHORITIES

1           A.     It Is In Furtherance of Justice to Allow Plaintiffs' to Amend Their Complaint

2           This Court "may, in furtherance of justice, and on such terms as may be proper, allow a  
3 party to amend any pleading or proceeding." CCP §473. It is established judicial policy to  
4 resolve all disputes between the parties on their merits, and to liberally allow amendments to the  
5 pleadings to put all disputes at issue at the time of the trial. See, *Vogel v. Thrifty Drug Co.*,  
6 (1954) 43 Cal.2d 184, 188 ("It is a basic rule of pleading in this State that amendments shall be  
7 liberally allowed so that all issues material to the just and complete disposition of a cause may  
8 be expeditiously litigated"); See also, *Wilson v. Turner Resilient Floors* (1949) 89 Cal.App.2d  
9 589; *In re Herbst's Estate* (1938) 26 Cal.App.2d 249,

10  
11           "While a motion to permit an amendment to a pleading to be filed is one addressed to  
12 the discretion of the Court, the exercise of this discretion must be sound and reasonable  
13 and not arbitrary or capricious. And it is a rare case in which 'a court will be justified in  
14 refusing a party leave to amend his pleadings so that he may properly present his case'.  
15 If the Motion to amend is timely made and the granting of the motion will not prejudice  
16 the opposing party, it is error to refuse permission to amend and where the refusal also  
results in a party being deprived of the right to assert a meritorious cause of action or a  
meritorious defense, it is not only error but an abuse of discretions."

17           *California Cas. Gen. Ins. Co. v. Superior Court* (1985) 173 Cal.App.3d 274, 278 (citations  
18 omitted).

19           The judicial policy favoring amendment in the interests of justice is so strong that denial  
20 is rarely justified. This motion is timely made since it is made before the defendants have been  
21 served with the Complaint and before the Court has set a date for trial.

22  
23           This Court may in its sound discretion allow Plaintiffs' to amend their complaint,  
24 regardless of the state of litigation. See, *Hirsa v. Superior Ct.* (1981) 118 Cal.App.3d 486, 488-  
25 489 ("Trial Courts are vested with the discretion to allow amendments to pleadings in  
26 furtherance of justice...that trial courts are to liberally permit such amendments, at any stage of  
27 the proceeding, has been established policy of this state...resting on the fundamental policy that  
28

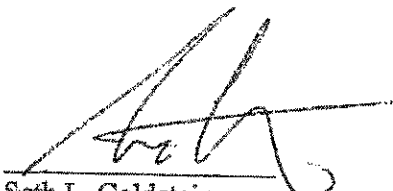
1 cases should be decided on their merits.”) Given the sate of this case, no party in interest will be  
2 prejudiced by Plaintiff’s amendment to their complaint. Because granting the motion for leave  
3 to file Plaintiffs’ Second Amended Complaint will not prejudice any party to this action and  
4 leave to amend will further the interests of justice, this Court should grant the Motion. *See,*  
5 *California Cas. Gen. Ins. Co. Supra.*  
6

7  
8 **III.**

9 **CONCLUSION**

10 WHEREFORE, Plaintiffs’ respectfully request that this Court grant their motion for  
11 leave to file a Second Amended Complaint in the form submitted with their motion.  
12

13  
14  
15 Dated: October 18, 2021

16   
17 Seth L. Goldstein,  
18 Lead Attorney for Plaintiffs’

19 *TO THE CLERK OF THE COURT:*  
20 **NO SERVICE WAS MADE AS THE**  
21 **DEFENDANTS HAVE YET TO BE SERVED**  
22 **WITH A COMPLAINT AND THERE ARE NO**  
23 **APPEARANCES FROM ANY DEFENDANT**  
24  
25  
26  
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO**

In the Matter of:

\_\_\_\_\_  
**Louie Andreas MARQUES, Gloria V.M.,  
Thomas V.M., and Jordan V.M.,**

**Plaintiffs**

**vs**

**GUIDING HANDS SCHOOL,  
Inc.(hereinafter "GHS"), , Staranne  
MEYERS, Cindy KELLER, Phyllis RAMSEY,  
Jennifer CHRISTENSEN, David  
CHAMBERS, Noel Doe, Nicole DOE,  
Roland DOE, Noel COLLIER, Patricia DOE,  
David DOE, Amanda DOE, Cara BRUCE,  
Ashley ROBB, Dolores ZUMBURY, Vince  
ANDERSON, Susan Jane BATTLE and  
Noelle DOE; STATE OF CALIFORNIA,  
DEPARTMENT OF EDUCATION; PLACER  
COUNTY SELPA, Kristi GREGERSEN, Troy  
TICKLE, POINT QUEST, Inc., Bill  
TOLLESTRUP, Bill WEBBER, Nicole DOE,  
Jennifer DOE; ROCKLIN UNIFIED  
SCHOOL DISTRICT, Kristain ROYER, Beth  
DAVIDSON; HANDLE WITH CARE  
BEHAVIOR MANAGEMENT SYSTEMS,  
INC.**

**Defendants.**

**Case No.: PC20200429**

**SECOND AMENDED  
COMPLAINT FOR DAMAGES**

**JURY TRIAL DEMANDED**

**I. PARTIES**

**Plaintiffs**

1. Plaintiff Louie MARQUES (legal name Louie Andreas MARQUES, hereinafter "MARQUES"), who lives in Sacramento was, at all relevant times herein, a minor child diagnosed as then having Oppositional Defiant Disorder and ADHD. He was a person with a disability as defined by the Unruh Act, with a mental disability as defined in Sections 12926 and 12926.1 of the Government Code.

2. At the relevant times, MARQUES had an IEP that identified predictable behaviors as disrespecting authority, tantrums, disruption of others, yelling, swearing, and kicking.

3. The BIP mandated that staff use verbal prompts, proximity changes, and modeling behaviors sought to be learned.

4. **Plaintiffs Thomas and Jordan V.M.** were children with disabilities as defined in 20 USD 1401(3), and were persons who under the Unruh Act, have a mental disability as defined in Sections 12926 and 12926.1 of the Government Code.

5. Thomas V.M. had an IEP that identified kicking, biting, throwing objects, refusal to participate in activity or follow staff directives, yelling, screaming, grunting or crying with tears as predictable behaviors.

6. His less restrictive corrective measures are identified as monitoring for safety, one step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach" and reapplication of original direction and follow through with original instruction.

7. Jordan V.M. had an IEP that identified non-compliance, physical aggression (kicking, hitting, pushing, biting, and spitting on staff and peers), yelling/screaming, inappropriate gestures and other behavior described as eating crayons and spitting water as predictable behaviors.

1 8. His less restrictive corrective measures are identified as monitoring for safety,  
2 one step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt  
3 approach" and reapplication of original direction and follow through with original  
4 instruction.

5 9. **Plaintiff Gloria V.M.** is the adoptive mother of Thomas and Jordan V.M. and is  
6 their Guardian Ad Litem.

#### 7 **DEFENDANTS**

8 10. **Defendants Guiding Hands School Inc., and Point Quest Inc.** 4900 Windplay Dr.,  
9 El Dorado Hills, California, located on the same premises having allegedly bought out  
10 GHS are non-public schools (hereinafter NPS) incorporated under the laws of the State  
11 of California as for-profit corporations and approved by the State of California as  
12 institutions providing for children with disabilities.

13 11. At all times relevant to this Complaint, GHS was a business establishment within  
14 the meaning of the Unruh Civil Rights Act. Defendant GHS was an independent  
15 contractor with Elk Grove Unified Schools, pursuant to a written contract to perform  
16 educational services for Plaintiffs MARQUES, Thomas and Jordan V.M.

17 12. Presently, and at all times relevant to this Complaint, POINT QUEST is a  
18 business establishment within the meaning of the Unruh Civil Rights Act. Defendant  
19 POINT QUEST is an independent contractor with Rocklin Unified Schools and Placer  
20 County SELPA, pursuant to a written contract to perform educational services for  
21 Plaintiff Jordan V.M.

22 13. Presently, and at all times relevant to this **Complaint, Defendants Rocklin**  
23 **Unified Schools and Placer County SELPA** are business establishments within the  
24 meaning of the Unruh Civil Rights Act.

25 14. **Defendant California Department of Education (CDE)**, a department of the  
26 State of California, presently, was, and at all times relevant to this Complaint,  
27 responsible for inspecting and certifying Non-Public Schools such as GHS and POINT  
28 QUEST. It is a business establishment within the meaning of the Unruh Civil Rights Act.

15. **Defendant Handle with Care Behavior Management System, Inc.** Defendant, HWC was a corporation organized under the laws of the State of New York, and doing business in California, marketing a system of restraint and training California teachers to restrain special needs children in prone and other types of restraints.

16. At all times herein mentioned, Bruce Chapman (hereinafter "CHAPMAN"), was the agent and employee, owner, president and founder of HWC, who developed a patented restraint system marketed through HWC to schools in California for use on "behaviorally challenged" children in California schools, including GHS, which lead to the injuries to the student plaintiffs.

17. At all times herein mentioned, defendant, HWC was a corporation organized under the laws of the State of New York, and doing business in California, marketing a system of restraint and training California teachers to restrain special needs children in prone and other types of restraints.

#### JURISDICTION AND VENUE

18. Gloria, Thomas, and Jordan V.M. have complied with the Tort Claims filing against CDE, ROCKLIN UNIFIED SCHOOL DISTRICT and PLACER COUNTY SELPA on March 24 , 2019 for injuries and claims herein stated against said public entities. True and correct copies of said claims are attached as **Exhibit A**.

19. Plaintiffs sue all Defendants in El Dorado County because all of the tortious acts occurred at 4900 Windplay Dr., El Dorado Hills, El Dorado County, California.

20. Plaintiffs are informed and believe that each of the Local Educational Agency (LEA) and NPS Defendants is the agent, ostensible agent, alter ego, master, servant, trustor, trustee, employer, employee, representative, affiliate, related entity, partner, and/or associate, or such similar capacity, of each of the other Defendants, and at all times acting and performing, or failing to act or perform, within the course and scope of each similar aforementioned capacities, and with the authorization, consent, permission or ratification of each of the other Defendants, and is personally responsible in some manner for the acts and omissions of the other Defendants in proximately causing the violations and damages complained of herein, and have participated,

directed, and have ostensibly and/or directly approved or ratified each of the acts or omissions of each of the other Defendants, as herein described.

**GHS EMPLOYEES:**

21. At all times herein mentioned, as to Plaintiff MARQUES defendants Staranne Meyers (hereinafter "MEYERS") was the principal and member of the board of GHS, Cindy Keller (hereinafter "KELLER") was the executive director of GHS, Phyllis RAMSEY (hereinafter "RAMSEY") was an administrator for GHS and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs, activities, services, training, staff; and all of whom have direct responsibility for ensuring the safety and well-being of their students, and for ensuring compliance with state and federal laws. MEYERS, KELLER, RAMSEY and DOE defendants allowed and encouraged staff at GHS to intentionally and unlawfully assault and batter Plaintiff MARQUES.

22. At all times herein mentioned, as to Plaintiffs Thomas and Jordan V.M., defendants MEYERS was the principal and member of the board of GHS, KELLER was the executive director of GHS, RAMSEY was an administrator for GHS, Jennifer CHRISTENSEN was an administrator at GHS, NARAN was an administrator at GHS, and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs, activities, services, training, staff; and all of whom have direct responsibility for ensuring the safety and well-being of their students, and for ensuring compliance with state and federal laws. MEYERS, KELLER, CHRISTENSEN, RAMSEY, NARAN, Noel COLLIER (Special Education Teacher), and unknown DOE defendants allowed and encouraged staff at GHS to intentionally and unlawfully assault Plaintiffs Thomas and Jordan V.M.

23. At all times herein mentioned, "Roland" was a driver for GHS and assisted on campus during the time Thomas V.M. was at GHS. "Roland" was also rehired as staff at Defendant Point Quest.

24. At all times herein mentioned, there were two secretary/support staff working the "front desk" at GHS. One was known to Thomas V.M. only as "Nicole" and the other's name is unknown at this time. On information and belief, "Nicole" was rehired at Defendant Point Quest.

25. At all times herein mentioned, as to Plaintiff MARQUES defendants Delores ZOMBURY (hereinafter "ZOMBURY"), Vince ANDERSON (hereinafter "ANDERSON"), Ashley ROBB (hereinafter "ROBB"), Cary BRUCE (hereinafter "BRUCE"), Cory QUINCEY (hereinafter "CORY"), Bryna QUINCEY (Hereinafter "BRYNA"), David Chambers (hereinafter "CHAMBERS") Kera BRUCE (Hereinafter "BRUCE" , Susan Jane BATTLE, and DOE defendants were employed as teachers, and aides at GHS, who intentionally and unlawfully assaulted MARQUES and unlawfully inflicted corporal punishment upon him. They had authority and control of the classroom, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of GHS.

26. The names and capacities, whether individual, corporate, otherwise, sued herein as DOES 1-100, inclusive, are presently unknown, and Plaintiff will amend the Complaint to insert them when ascertained.

#### **POINT QUEST EMPLOYEES**

27. Bill Tollestrup, Interim Director of El Dorado Hills, Bill Weber, Director of El Dorado Hills, Nicole DOE, Jennifer DOE, Roland Doe, and DOE defendants were employed as administrators, teachers, and aides at POINT QUEST, who intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and control of the classroom, including policies, practices, procedures, facilities, and activities within the classroom.

28. At all times relevant to this Complaint, Defendant Noel COLLIER, Patricia DOE, David DOE, Amanda DOE, and Noelle DOE were employees of POINT QUEST and were either directly involved in restraining Plaintiff Jordan V.M. or were immediately

present on the premises during the restraints and failed to intercede to protect the plaintiffs.

They are sued in their individual capacity and in their capacity as employees of POINT QUEST.

#### **ROCKLIN UNIFIED SCHOOL EMPLOYEES**

29. Kristain ROYER, Program Specialist, Beth DAVIDSON, Assistant Director of Special Education, and DOE defendants were employed as administrators at RUSD, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

#### **PLACER COUNTY SELPA EMPLOYEES**

30. Kristi Gregersen, Program Specialist, Troy TICKLE, Director, Placer County SELPA, and DOE defendants were employed as administrators at Placer County SELPA, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

31. Plaintiffs MARQUES, Thomas, and Jordan V.M. were placed at GHS and POINT QUEST by their respective school districts after representations were made to the minors' parents about both schools special skills, facilities and safe environment appropriate for their children. The placement was pursuant to each student's Individual Education Plan (IEP), as a result of their diagnosis as children with disabilities, because the school districts themselves determined they were unable to provide a Free Appropriate Public Education.

32. Defendants GHS, POINT QUEST, ROCKLIN UNIFIED SCHOOLS AND PLACER COUNTY SELPA have failed to adequately supervise their employees that resulted in

the foreseeable physical harm to Plaintiffs. Defendants had a statutory duty to ensure that staff who came into contact with Plaintiffs would provide an environment free of abuse and neglect.

33. California law, including Cal Const, Art. I § 28, has long imposed on school authorities a duty to supervise at all times the conduct of children on school grounds and to enforce those rules and regulations necessary for their protection. Defendants also had a duty to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting intentionally or negligently.

34. Defendants have violated their statutory duties to Plaintiff, including their supervisory duties created under California Education Code sections 44807 and 44808.

35. California Penal Code section 11166 which required them to report any knowledge of a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect to the agency immediately or as soon as is practically possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written follow up report thereof within 36 hours of receiving the information concerning the incident.

36. Defendants have violated their statutory duties to Plaintiffs Thomas and Jordan V.M., including multiple violations of California Education Code sections 56521.1 and 56521.2 (and its predecessor legislation) that, in pertinent parts, suggest alternative interventions and/or prohibits the use of any interventions that:

1) cause physical pain; 2) simultaneously immobilize all four extremities, 3) apply an amount of force that exceeds that which is reasonable and necessary under the circumstances, or 4) subjects the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.

37. Defendants have violated their statutory duty under California Penal Code section 11165.4 which prohibits "unlawful corporal punishment or injury" against a child, defined as "any cruel or inhuman corporal punishment or injury resulting in a traumatic condition."

38. Defendants GHS and POINT QUEST violated its statutory duty under California Education Code section 260 by failing to enact an adequate formal or informal policy to ensure that GHS and POINT QUEST provided a learning environment free from discrimination based on the characteristics provided in California Education Code section 220, specifically disability.

39. GHS was closed in 2018 after the State of California revoked their license to operate following the death of student Max Benson who was subjected to a restraint that killed him.

40. After GHS was closed it was, allegedly, sold to POINT QUEST, and Jordan V.M. then attended Defendant POINT QUEST.

41. When POINT QUEST took over GHS facilities and educational duties, Gloria V.M. was assured by the Rocklin Unified School staff, Placer County SELPA, and POINT QUEST staff, expressly, by inference, or omission, that the previous policies and practices employed by GHS were, not only no longer employed, she was assured that the GHS employees were gone and would not be rehired at POINT QUEST.

42. For more than a decade, the California Department of Education ("CDE"), school districts, county offices of education and Special Education Plan Areas ("SELPAs") -have known that using restraints on students, particularly in response to predictable disability-related behavior, carries serious risks for their physical and emotional health.

43. There have been many reports of students with behavioral challenges dying or sustaining serious injuries due to abusive use of restraint systems, such as the Handle With Care system developed by Defendant Bruce Chapman. It is also well-known that restraints are disproportionately used against children with disabilities.

44. Despite this knowledge, nonpublic schools like Defendants GHS and POINT QUEST and their respective staffs continued to use such restraints frequently, in response to predictable behaviors that did not constitute an immediate or serious threat to the student or others, for extended periods of time, on students whose disabilities elevated the risk of using restraints, and with excessive force.

1 45. They could do so because the CDE, and the LEA Defendants abdicated their  
2 responsibilities to monitor and supervise GHS and POINT QUEST and ensure their  
3 compliance with state and federal laws prohibiting discrimination and the improper use  
4 of restraints.

5 46. The CDE continued to certify GHS continues to currently certify POINT  
6 QUEST, and the LEA Defendants continued to contract with and place their students  
7 with disabilities in the respective schools.

8 47. Plaintiff students with developmental and other disabilities whose local  
9 educational agencies placed them at GHS and POINT QUEST pursuant to their  
10 Individualized Education Plans ("IEP")

11 48. Each Plaintiff Student attended GHS sometime between 2006 and 2018, where  
12 its administrators and staff subjected them to excessive and harmful restraints and  
13 other aggressive physical interventions in response to known behaviors associated with  
14 their disabilities, resulting in physical and emotional abuse and injury, and in the case  
15 of one other student, death.

16 49. GHS was, and POINT QUEST is, a nonpublic school-as that term is defined in  
17 Cal. Ed. Code § 56034-which contracted with the LEA Defendants to provide special  
18 education services to public school students with disabilities in exchange for state and  
19 federal educational funding.

20 50. As required by law, GHS and POINT QUEST entered into Master Contracts with  
21 the LEA's, as well as an Individual Services Agreement for each student placed there.

22 51. Each of the Plaintiff Students' IEP's included a Behavioral Intervention Plan  
23 ("BIP") which described the student's known disability-related behaviors and the  
24 intervention strategies and positive behavioral supports educators should use to  
25 prevent or respond to those behaviors.

26 52. Despite legal requirements (discussed below) and Defendants' knowledge of the  
27 dangers associated with restraints to students' physical and emotional health, GHS and  
28 POINT QUEST administrators and employees engaged in a policy and practice of using  
restraints as a substitute for the positive interventions detailed in the students' BIPs in

1 response to predictable behavior that did not pose a clear and present danger of  
2 serious physical harm to the student or others. GHS and POINT QUEST used  
3 restraints against its students frequently, for periods of time that were longer than  
4 necessary, and with excessive force.

5 53. These restraints-including prone restraints- in which the child is placed face  
6 down on the floor with one or more adults applying force from above to keep the child's  
7 body immobile-frequently lasted over an hour.

8 54. Some students were restrained frequently, sometimes more than one time each  
9 day.

10 55. The restraints and other aggressive physical interventions inflicted by GHS and  
11 POINT QUEST caused the Plaintiff Students physical and emotional injuries.

12 56. GHS and POINT QUEST administrators were not only aware of the abuse, but  
13 encouraged it and were responsible for the school's policy and practice of using  
14 frequent, excessive, harmful and lengthy restraints as a substitute for positive  
15 behavioral interventions in response to students' predictable, disability-related  
16 behaviors.

17 57. GHS and POINT QUEST did not provide adequate training in positive  
18 behavioral interventions, instead relying on Defendant Bruce Chapman's patented  
19 restraint system, Handle With Care Behavioral Management Systems, Inc. which was  
20 associated with numerous abuses by educational professionals on students with  
21 behavioral challenges.

22 58. GHS and POINT QUEST training in the HWC method ignored requirements of  
23 state and federal law and did not provide proper warnings regarding the risks  
24 associated with restraining students or safeguards for monitoring and responding to  
25 signs of distress.

26 59. Moreover, GHS and POINT QUEST took significant measures to conceal its  
27 illegal use of restraints and child abuse from parents and the LEAs with which it  
28 contracted by failing to provide required reports to the parents and the State of  
California.

60. Prior to the children's placement, GHS misrepresented orally, in enrollment documents, and in the children's IEP that the school focused on proactive, positive behavioral interventions and that corrective behavior would be "calm", "brief", and "respectful."

61. The HWC Intervention Statement that parents had to sign as part of the enrollment packet emphasized positive intervention and "the 3-step prompt" which "entails a verbal request, followed by staff modeling and finally hand over hand with children who may have difficulty following directions . . ." It represented that a restraint would be used only if the child appeared to be "a physical danger to themselves or others around them".

62. GHS used the HWC terminology in referring to the most dangerous restraint-a prone restraint-as a "neutral" restraint. *Id.* These misrepresentations were repeated in the students' BIPs developed as part of the IEP process and a part of the agreement between the parent/student, the LEA, and GHS.

63. When a student was restrained, GHS frequently failed to complete a Behavioral Emergency Report ("BER"), place the BER in the student's file, send it to the LEA, or notify the student's parent, as required by law and GHS's Master Contracts with the LEAs. Nor did GHS administrators or staff report the regular, systemic child abuse they witnessed and participated in at the school, despite the requirement to do so as mandated reporters.

64. GHS's use of restraints was so excessive in frequency, duration, force and purpose that any educator or monitoring official who personally observed the program for more than an hour would realize that the school and its staff had exceeded the legal bounds for emergency interventions and were physically abusing their students.

65. However, the CDE and the LEAs ignored their legal duties to supervise and monitor the program and continued to place vulnerable students in its care. GHS would still be abusing its students were it not for the death of a 13-year-old student who died after he was held in a prone restraint for almost two hours on November 28, 2018.

1 66. Plaintiff Thomas V.M. was a disabled student, placed at GHS on August 6, 2018,  
2 because of his diagnosis of his disability. Plaintiff Jordan V.M. was a disabled student,  
3 placed at GHS on February 22, 2018, because of his diagnosis of disability. All  
4 plaintiffs, due to their disabilities, engaged in repetitive conduct that disrupted their  
5 educational experience and abilities.

6 67. Because of the disruption that affected other students, they were frequently  
7 placed in such restraints, which included but was not limited to, the imposition of  
8 restraints that constituted physical child abuse, battery, and assault.

9 68. Referring to these restraints as though they were normal and accepted ways of  
10 disciplining plaintiffs, Defendant administrators, teachers and assisting staff, as  
11 individually identified below, preyed on plaintiffs because of their disability related  
12 conduct.

13 69. These defendants assaulted and battered plaintiffs repeatedly rather than  
14 following the BIPs.

15 70. The LEA administrators, by and through their agency with GHS and POINT  
16 QUEST administrators tasked unqualified and inadequately trained staff with  
17 supervising plaintiff students, who often failed to document and report incidents of  
18 abuse, and failed to take reasonable steps to prevent further abuse.

19 71. Plaintiffs, like other students who were also subjected to such conduct, would  
20 attend class and when a student acted consistently with their predictable behaviors  
21 stated in their individual BIP and IEP (and the reason(s) why they were placed at GHS  
22 and POINT QUEST) or failed to follow the directions of the GHS and POINT QUEST  
23 staff as individually described below, they would be subjected to painful restraints in full  
24 and open view of fellow students.

25 72. Each plaintiff had specific conduct that was identified in their BIP, for which,  
26 each plaintiff had a set of less restrictive measures to be taken before a "hands on"  
27 physical intervention such as painful restraints would be exercised.

28 73. Plaintiffs witnessed other students treated in the same way in their respective  
classes. The observation of such torturous conduct to other students and themselves

caused Plaintiffs who were in their immediate presence to experience fear and anxiety such that they were terrorized in anticipation that they too might be hurt in the same way.

74. As to MARQUES, the documented abuse occurred from as early as December 18, 2006, when Plaintiff MARQUES began attending GHS through March 19, 2008, when he was removed. For Thomas and Jordan V.M., it began when they first began to attend GHS on February 22, 2018, and lasted until they were removed on or about the end of December 2018 and officially, in January, 2019.

75. Shortly after beginning to attend Defendant POINT QUEST, Thomas was assaulted, battered, and restrained in the same fashion as described below. He was removed on or about October 1, 2019 and officially October 22, 2019.

76. No efforts were shown to protect plaintiffs from the continued abuse by the schools' administrations and, in fact, when complaints were made by plaintiff's respective parents, the administration of both schools backed their employees alleging the children were at fault and their employee's actions were necessary.

77. Defendants GHS and POINT QUEST, and their individual staff members as particularly described below, carried out these series of abusive acts upon Plaintiffs and other students, terrorizing them throughout their time at the school generating Plaintiffs' deeply held fears of reoccurrence.

78. The harmful effects of the abuse suffered by all Plaintiffs at the hands of the staff directly abusing him have been compounded by all the Defendants' (as individually named below) willful failure to adequately report, document, respond to, and prevent the abuse.

79. Even after each of the plaintiffs' parents approached the defendants as described below, requesting information about the abuse that would explain the children's injuries, conduct at home, and their account of events, defendant administrators at the respective schools failed to provide any meaningful information regarding what transpired in their children's classroom, covering up their conduct by providing false accounts of the events.

80. Plaintiffs Thomas and Jordan V.M. are in another school in Washington State.

81. The alleged acts and Plaintiffs' damages are such that proceeding through due process before the Office of Administrative Hearings would be both futile and irrelevant.

82. Plaintiffs' injuries cannot be redressed under the IDEA's due process procedures because they were assaulted and are not seeking the types of remedies available under the IDEA, rather seeking remedies for physical and emotional damages resulting from being assaulted.

83. In addition, Plaintiff MARQUES is an adult and outside of the educational system.

84. The same is true for Plaintiffs Thomas and Jordan V.M. who are both outside the State of California in a private religious school.

85. From records to be obtained by Plaintiffs, there were restraint incidents involving Plaintiffs and they expressly reserve their right to amend this Complaint to include additional facts and/or claims as discovery in this case proceeds.

#### **OPERATIVE FACTS**

86. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

#### **AS TO PLAINTIFF MARQUES**

87. Over a one-and-one-half year period as specifically set forth below in each cause of action, Defendants ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOE defendants repeatedly unlawfully assaulted Plaintiff MARQUES by grabbing him, pushing or otherwise forcing him to the floor and, in painful positions, pinning all four appendages for various periods of time, immobilizing him, including as punitive measures. All were either for an unnecessarily prolonged period of time or had failed to utilize the less restrictive measures set forth in his BIP for predictable behaviors related to his disability.

88. MARQUES was a student at GHS from 2006 to 2008. He was referred to GHS by Elk Grove School District employees.

1 89. MARQUES had both an Individual Education Plan (EIP) and a Behavioral  
2 Intervention Plan (BIP) at all relevant times herein.

3 90. Defendants GHS, MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON,  
4 ROBB, BRUCE, CORY, BRYNA, CHRISTENSEN, CHAMBERS and DOE defendants  
5 failed to file Behavioral Emergency Reports or document injuries as required by law,  
6 so all of the dates of assaults all are unknown to MARQUES at the present time.

7 91. Those that are identified occurred on Sept. 12, 2006, Dec. 18, 2006, April 16,  
8 2007, April 23, 2007, September 4, 2007, September 5, 2007, October 31, 2007, March  
9 19, 2008, set forth in greater detail below.

10 92. On September 12, 2006, and 9:50 AM, guiding hands employees Kera Bruce and  
11 Ashley ROBB, put MARQUES in a restraint for 12 minutes because he failed to stand  
12 appropriately and when escorted from the line he was standing in, kicked a student and  
13 Bruce. He was restrained "per CPI". Both Dolores ZOMBURY and David Chapman  
14 participated in the restraint.

15 93. On December 18, 2006, at 1:45 PM Ashley ROBB and Kera Bruce instituted an  
16 eight minute restraint after MARQUES had been found to have a toy belonging to  
17 another student. What he was told to return the toy he began to kick his desk and a  
18 filing cabinet. He was placed in a basket restraint.

19 94. On April 16, 2007 at 9 AM, MARQUES was put in a restraint for five minutes by  
20 ZOMBURY, after he refused to sit down and began throwing pencils and calling  
21 children names.

22 95. On April 17, 2007, at 10 AM, MARQUES was put in a restraint by Dolores  
23 ZOMBURY for five minutes after he was told to put a pointer down and had slapped it  
24 on the desk of another student. When he was directed to sit down he ran around the  
25 room and was restrained.

26 96. On April 17, 2007, at 10:50 AM, MARQUES was put in a restraint for 30 minutes  
27 by Dolores ZOMBURY and subsequently by a teacher's aide known only as "Laure",  
28 when MARQUES refused to give back a protein bar and be escorted to his seat. He  
kicked the teacher and was taken to the "corner".

1 97. On April 23, 2007, at 8:35 AM, he was placed in a three minute restraint by  
2 ZOMBURY after another student had pushed him, rubbing "snot" on his jacket and in  
3 response he pushed that student down.

4 98. On April 23, 2007 11:30 AM, MARQUES was put in a restraint when he began  
5 swearing and started to run towards another student after he disregarded a request by  
6 the instructor to put his head down on his desk. The staff involved were ZOMBURY and  
7 Chambers.

8 99. On September 5, 2007, 2 PM, MARQUES was put in a restraint by instructor  
9 Vince Anderson, because he failed to follow directions and began yelling in the  
10 presence of his mother.

11 100. On March 19, 2008, CORY, BRYNA, CHAMBERS, and DOE defendants  
12 restrained MARQUES, forcing him to the floor and containing him in a "basket hold."

13 101. In this restraint, MARQUES was pushed to the ground and placed in a position  
14 for an extended period of time, while his arms were pulled behind his back. GHS staff  
15 sat at his back while he was in this position, increasing his pain and making it difficult  
16 for him to move.

17 102. This incident arose when another child assaulted MARQUES with a rock and  
18 MARQUES defended himself.

19 103. When assaulted by GHS staff on March 19, 2008, MARQUES suffered bruises  
20 to his chest, burns to his elbows, and severe soft tissue damage to his back and  
21 buttocks as a result of these restraints.

22 104. MARQUES subsequently suffered panic attacks, night-terrors, startles,  
23 depression and self-loathing as a result of these restraints.

24 105. MARQUES was abused on additional occasions while attending GHS.

25 106. MARQUES will seek leave to allege these dates according to proof when further  
26 information becomes available through the discovery process.

27 107. At all relevant times, MARQUES.'s behaviors were known and predictable and  
28 had previously been addressed in his Behavioral Intervention Plan.

108. The restraints imposed upon MARQUES, as herein alleged, constituted child abuse (Penal Code Section 273a), corporal punishment (Penal Code Section 273d) and battery (Penal Code Sec. 242), and torture (Penal Code Section 206) prohibited by California law.

**AS TO THOMAS V.M.**

109. Thomas V.M. was restrained by GHS and POINT QUEST staff on many occasions the precise details are neither known to he nor his mother at this time, other than that described as follows.

110. Thomas V.M. was restrained in some fashion on September 5, 2018, for forty (40) minutes by or in the presence of Defendant Noel COLLIER, who left a phone message for Gloria V.M. on that date informing her of the incident where he refused to participate in an art exercise and was restrained as a result of staff intervention.

111. Thomas V.M. was restrained in some fashion on September 19, 2018, by or in the presence of Defendant Noel COLLIER.

112. Thomas V.M. was restrained in some fashion on October 3, 2018, by or in the presence of Defendant Noel COLLIER, when he refused to cooperate with staff.

113. Thomas V.M. was restrained in some fashion on October 23, 2018, by or in the presence of Defendant Noel COLLIER and David Chambers, when he would not cooperate with staff and bit one on the leg.

114. Thomas V.M. was restrained in some fashion on October 18, 2018, by or in the presence of Defendant Noel COLLIER when he would not cooperate with staff.

115. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 3, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would not give up a ball nor participate in Yoga.

116. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 5, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would participate in his math lesson and threw a pencil and his book.

117. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 19, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would not give up a ball nor participate in school work, threw his paper at Noelle DOW and tried to leave the classroom.

118. Thomas V.M. was restrained by a staff member named "Jennifer" when attending POINT QUEST and, as a result, his mother immediately withdrew him from the school.

119. Thomas V.M. knows that "Jennifer" was a previous staff member at GHS.

120. Thomas V.M. was repeatedly assaulted by "Roland" who was a driver for GHS and who had shoved Thomas, face first, into a wall on various occasions, one of which chipped one of Thomas's teeth.

121. While attending GHS, Thomas was repeatedly refused food and prevented from eating, despite his mother's frequent pleas that he be provided the lunch he was sent to school with or that was to have been provided by the GHS staff. Thomas, at all relevant times, was suffering from a thyroid disorder and provided medication that frequently made him hungry. Various unidentified staff, including Nicole Doe, had taken Thomas's lunch from him before he was finished eating, thereby increasing his discomfort and hunger throughout the day.

**AS TO JORDAN V.M.**

122. Jordan V.M. was restrained by GHS staff on many occasions the precise details are neither known to he nor his mother at this time, other than that described as follows:

123. Jordan V.M. was restrained in a restraint of some fashion on February 26, 2018, by or in the presence of Defendant Amanda Doe, when he would not cooperate on a bus trip home.

124. Jordan V.M. was restrained in a restraint of some fashion on October 10, 2018, by or in the presence of Defendant Noel COLLIER, when he was asked to do class work and threw a crayon.

125. Jordan V.M. was restrained in a restraint of some fashion on October 9, 2018, by an unknown staff member, possibly "Dorian", for an unknown reason.

### **FIRST CAUSE OF ACTION**

#### **Violation of California Civil Code §§ 51, et seq.**

AS TO PLAINTIFF MARQUES Against GHS;  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
and DOES 1-100.

126. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth herein.

127. Plaintiff MARQUES was a person with disabilities as defined by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. He had been diagnosed with Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder and was limited in the major life activities of learning.

128. Plaintiffs THOMAS and JORDAN V.M. are persons with disabilities as defined by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. They had been diagnosed as Autistic.

129. Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT are businesses establishment covered by California Civil Code §51.

130. GHS, POINT QUEST and their staffs subjected Plaintiffs to physical and emotional abuse in response to behavior that was a manifestation of Plaintiffs' disabilities as described above.

131. GHS and POINT QUEST discriminated against Plaintiffs in that they did not provide them with full and equal enjoyment of GHS' and POINT QUEST's goods, services, facilities, privileges, advantages, or accommodations.

132. Plaintiffs were not provided with the services, facilities, privileges, advantages and accommodations of GHS and POINT QUEST on a basis equal to that afforded to individuals without disabilities.

133. The discipline methods, behavior standards and criteria employed by GHS and POINT QUEST caused Plaintiff to be subjected to physical and emotional abuse as a result of his disabilities.

134. GHS and POINT QUEST failed to make reasonable modifications to their educational and behavioral intervention methods and staff training that were necessary to afford students with disabilities such as Plaintiff equal access to GHS's and POINT QUEST's goods, services, facilities, privileges, advantages and accommodations.

135. The actions and failures to act of GHS and POINT QUEST violated Title III of the Americans with Disabilities Act of 1990, 42 U.S.C. § 121. Defendant has committed additional violations of the Unruh Civil Rights Act in that the conduct alleged herein constitutes a violation of various provisions of the Americans with Disabilities Act, 42 U.S.C. sections 12181, et seq. As such, Defendant's actions also constituted a violation of the Unruh Act under Cal. Civ. Code § 51(f).

136. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

137. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense pursuant to California Civil Code section 52.

138. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

**SECOND CAUSE OF ACTION**  
**Violation of Cal. Civ. 51.7 Ralph Civil Rights Act**  
AS TO PLAINTIFF MARQUES Against GHS and DOES 1-100;

AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

139. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth herein.

140. Defendants in doing the acts described above violated Plaintiffs' rights under the Ralph Civil Rights Act.

141. Plaintiffs have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of any characteristic listed or defined in subdivision (b) or (e) of Section 51, because another person perceives them to have one or more of those characteristics.

142. In committing the acts described above, all defendants have violated Plaintiffs' rights by subjecting them to violence and intimidation.

143. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

144. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense pursuant to California Civil Code section 52.

145. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

### **THIRD CAUSE OF ACTION**

#### **For Interference with Exercise of Civil Rights in Violation of California Civil Code Section 52.1**

AS TO PLAINTIFF MARQUES Against GHS,  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

146. Plaintiff incorporate, by reference herein, all preceding paragraphs , as though fully set forth herein.

147. California Civil Code 52.1 provides that it is unlawful to interfere with the exercise

or enjoyment of any rights under the Constitution and the laws of this state and the United States by attempted use of threats, intimidation or coercion.

148. The California Constitution establishes the right to a free public education to all students on an equal basis. *Butt v. California*, 4 Cal. 4th 668, 685 (1992).

149. California Civil Code section 43 guarantees the right of every person to be free from bodily restraint or harm and personal insult.

150. In doing the things herein alleged, Defendants intentionally interfered with and attempted to interfere with Plaintiff's civil rights by threats, intimidation, or coercion.

151. Defendants acted violently against Plaintiff, thereby preventing him from exercising his rights.

152. Defendants' conduct caused Plaintiff to suffer physical and emotional harm.

153. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

154. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged, was a substantial factor in causing said harm to Plaintiff.

155. Defendants' GHS and POINT QUEST's employees, violated Plaintiffs' rights by using a physical restraint technique that impaired Plaintiffs' ability to breathe; placing Plaintiffs in a face down position with the pupil's hands held or restrained behind the pupil's back; and by using a behavioral restraint for longer than was necessary to contain the behavior that allegedly posed a clear and present danger of serious physical harm to the pupil or others.

156. Defendant employees of GHS and POINT QUEST acted with conscious disregard of Plaintiffs' rights and the fact that their conduct was certain to cause injury and/or humiliation to Plaintiffs. Plaintiffs are informed and believe that Defendant employees of GHS and POINT QUEST intended to cause fear, physical injury and/or pain and suffering to Plaintiff. Plaintiff is therefore entitled to recover punitive and exemplary damages.

157. Plaintiff is also entitled to actual and/or statutory damages, as well as reasonable attorneys' fees and costs as set by the Court.

**FOURTH CAUSE OF ACTION**  
**Violation of California Education Code §§ 200, 201, 220, and 260 et seq.**

AS TO PLAINTIFF MARQUES Against GHS,  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

158. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

159. Plaintiffs are individuals with disabilities.

160. At all times relevant to this complaint, Defendant GHS was an educational institution providing education to students from kindergarten through twelfth grade and receiving financial assistance from the State of California.

161. Defendants discriminated against Plaintiff on the basis of their disability by subjecting them to physical and emotional abuse in response to disability-related behavior.

162. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

163. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged, was a substantial factor in causing said harm to Plaintiff.

164. As a proximate cause of the actions of Defendants herein, Plaintiff is entitled to damages in an amount according to proof and reasonable attorneys' fees and costs.

**FIFTH CAUSE OF ACTION**  
**Assault and Battery Pursuant to California Penal Code Section 206**  
**AS TO PLAINTIFFS**  
**MARQUES, against GHS, KELLER, MYERS, RAMSEY, CHRISTENSEN,**  
**CHAMBERS, ROBB, BRUCE, ZOMBURY, ANDERSON, CORY QUINCY, BYRNA**  
**QUINCY, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;**

Thomas V.M. against defendants GHS, CHRISTENSEN, RAMSEY, MYERS,  
KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe,  
Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;  
EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT;  
DOES 1-100

165. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

166. CHAMBERS, CHRISTENSEN, MEYERS, KELLER, RAMSEY, "JENNIFER" DOE, and DOE defendants , with the intent to cause cruel or extreme pain and suffering for the purpose of persuasion, or for a sadistic purpose, inflicted significant injury upon Plaintiffs by repeatedly assaulting Plaintiffs throwing them to the ground and causing bruises, contusions and lacerations.

167. As a result, Plaintiffs suffered physical and psychological injuries.

168. Defendants acted with the intent to cause injury and that action and intention was despicable, done with a willful and knowing disregard of the rights of Plaintiffs.

169. Defendants acted knowingly and aware of the probable consequences of their conduct and deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel and unjust hardship.

170. Defendants' conduct, assaulting a disabled child is so vile, base, and contemptible that it would be looked down upon and despised by reasonable people.

171. Defendants' conduct in intentionally assaulting and restraining Plaintiffs knowing of their disabilities was malicious and outrageous such that exemplary damages should be awarded.

172. WHEREFORE, Plaintiffs pray for judgment for damages according to proof.

**SIXTH CAUSE OF ACTION**

**ASSAULT AND BATTERY**

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe,  
Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;  
EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT DOES 1-100

173. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

174. In doing the things herein alleged, said defendants intended to cause, and did cause Plaintiffs Thomas and Jordan V.M. to suffer harmful or offensive contact.

175. As a result of said conduct of said defendants, Plaintiffs Thomas and Jordan V.M., reasonably believed that they were about to be touched in a harmful or offensive manner, and in a manner that offended a reasonable sense of personal dignity.

176. In doing the things herein alleged, said defendants threatened to touch Thomas and Jordan V.M. in a harmful or in an offensive manner.

177. At all times herein mentioned, it reasonably appeared to MARQUEZ, Thomas and Jordan V.M. that said defendants were about to carry out the threat.

178. At all times herein mentioned, Thomas and Jordan V.M. did not consent to the conduct of said defendants.

179. Thomas and Jordan V.M. suffered harm, as herein alleged.

180. The aforementioned conduct of said defendants was a substantial factor in causing Thomas and Jordan V.M. harm. The conduct of said defendants, caused Thomas and Jordan V.M. to be apprehensive that said defendants would subject Thomas and Jordan V.M. to further intentional invasions of their right to be free from

harmful and offensive contact, and demonstrated that at all times material herein, said defendants had a present ability to subject Thomas and Jordan V.M. to an intentional offensive and harmful touching.

181. Said defendants' unlawful conduct, as herein alleged, was a substantial factor in causing Thomas and Jordan V.M. to suffer physical and emotional injury, and future physical and emotional injury, all in an amount within the jurisdiction of the court according to proof at trial.

182. At all relevant times, said defendants acted with conscious disregard of MARQUEZ, Thomas and Jordan V.M. rights, safety, physical well-being and feelings. Said defendants also acted with the knowledge of, or with reckless disregard for, the fact that their conduct was certain to cause injury and/or humiliation to Thomas and Jordan V.M. Said defendants intended to cause fear, physical injury and/or pain and suffering to Thomas and Jordan V.M.

183. By virtue of the foregoing, the estate of Thomas and Jordan V.M. are entitled to recover punitive and exemplary damages from individual and non-public entity defendants according to proof at trial. Estate of Thomas and Jordan V.M. make no claim for punitive damages against the named defendants.

#### SEVENTH CAUSE OF ACTION

##### INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, CHRISTENSEN, NARAN, POINT QUEST, RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT;  
DOES 1-100

184. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

185. In doing the things herein alleged, the conduct of said defendants was outrageous in that it was so extreme as to exceed all bounds of that usually tolerated in a civilized community.

186. Said defendants inflicted actual injury and/or acted with reckless disregard of the probability that Plaintiffs Gloria, Thomas and Jordan V.M. would suffer emotional distress, knowing that the children who were restrained, including Gloria, Thomas and Jordan V.M., were present when the conduct occurred.

187. The conduct of said defendants, as herein alleged, was a substantial factor in causing Gloria, Thomas and Jordan V.M., to suffer severe emotional distress, severe mental anguish, humiliation, pain, and physical distress.

188. Said defendants knew or should have known that Thomas and Jordan V.M. did not need to be, for their safety or the safety of others, and did not want to be, physically forced into prolonged prone restraints, standing, seated, settled and/or small child restraints.

189. Said defendants' knowing disregard for the safety of Thomas and Jordan V.M. and said defendants' deliberate failure to monitor and control their behavior towards exceptional needs students, such as Thomas and Jordan V.M. caused Thomas and Jordan V.M. to be repeatedly battered and assaulted by teachers and aides at GHS and POINT QUEST.

190. Said defendants' conduct was extreme and outrageous.

191. Said defendants acted willfully and wantonly, and with reckless disregard for plaintiffs' rights and feelings, and with deliberate indifference to the certainty that Gloria, Thomas and Jordan V.M. would suffer emotional distress.

192. The outrageous conduct of said defendants described herein was willful and malicious and was performed with conscious disregard for the rights, safety, physical well-being and feelings of the Gloria, Thomas and Jordan V.M. As a result, Gloria, Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual and non-public entity defendants in a sum according to proof.

**EIGHTH CAUSE OF ACTION**

**FALSE IMPRISONMENT CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

ASSERTED by

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; ROYER, DAVIDSON

193. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

194. Said defendants, in concert with one another, did intentionally and unlawfully, and conspire to, exercise force, threat, implied threat of force, or duress, to restraint and confine Thomas and Jordan V.M. , and deprive them of their freedom of movement, when said defendants committed the acts described herein.

195. Thomas and Jordan V.M. did not knowingly or voluntarily consent to said restraints.

196. As a proximate cause of the restraints, Thomas and Jordan V.M. suffered actual physical and emotional harm, as herein alleged.

197. That the conduct of said defendants, as herein alleged, was a substantial factor in causing harm to Thomas and Jordan V.M.

198. The outrageous conduct of the said defendants was willful and wanton, and was

performed with conscious disregard for the rights, safety, physical well-being and feelings of Thomas and Jordan V.M.

199. As a result, Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual and non-public entity defendants in a sum according to proof at time of trial.

**NINTH CAUSE OF ACTION  
NEGLIGENCE**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST, RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
DOES 1-100

200. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

201. Said defendants breached their duty towards Thomas and Jordan V.M. by:

a. Failure to develop and maintain effective procedures governing emergency interventions;

b. Failure to obtain proper training for use of behavioral emergency interventions

c. Failure to provide oversight on the use of restraints

d. Failure to develop protocols for use of restraints

f. Failure to prohibit restraints on physically disabled children

g. Failure to prohibit prolonged restraints (anything over 15 minutes)

h. Failure to require that Thomas and Jordan V.M. be released from a restraint at the earliest possible moment.

i. Failure to prohibit the use of any restraint when contraindicated by Thomas and Jordan V.M. medical or psychological conditions, which were known to increase the risk of physical injury.

j. Failure to prohibit restraints that constrict the child's ability to breathe.

k. Failure to prohibit the use of multiple staff members in a restraint, which exponentially increases the risk of injury.

l. Failure to provide for the comfort of Thomas and Jordan V.M. while in prone restraint, including, but not limited to: offering Thomas and Jordan V.M. fluids, bathroom use, exercise, range of motion and periodic release of limbs.

m. Failure to require monitoring by staff of the vital signs of the child regularly throughout the restraint.

n. Failure to require continuous, close supervision of a restraint by the HWC trainer or another staff member who is not involved in the restraint.

o. Failure to require immediate and accurate reporting on each restraint

p. Failure to conduct a prompt and thorough review of any restraint imposed as a means to ensure compliance with laws and policies; to ensure continuing safety of students; and to prevent other incidents of restraint.

q. Failure to provide for:

- primary preventative measures rather than restraint;
- interventions that are less intrusive than restraints;
- effective ways to de-escalate situations to avoid restraints; and
- crisis intervention techniques that utilize alternatives to restraint.

1 r. Failure to provide staff with resources and tools to properly respond to  
2 the needs of those whom they serve and to be able to identify and address  
3 the triggers that may cause emotionally disturbed children to react in  
ineffectual ways to the environment.

4 s. Failure to teach students adaptive behaviors, especially involving autistic  
5 children who do not have effective ways of communicating and interacting  
6 with others.

7 t. Allowing use of physical restraints on children which:  
8 - create an aversive environment counterproductive to facilitating  
9 learning;  
10 - cause significant physical harm, serious, foreseeable long term  
psychological impairment.

11 u. Failure to provide oversight on the use of restraints to determine  
12 - whether the intervention was necessary  
13 - whether each restraint was implemented in a manner consistent  
14 with staff training, as well as school and District (SELPA) policy.

15 v. Failed to document injuries caused by restraint and

16  
17 w. Failed to get medical attention for a child who was injured while in  
18 restraint.

19 202. As a foreseeable result of the breach of said mandatory duties by said  
20 defendants, said school staff at GHS and POINT QUEST imposed numerous and  
21 prolonged prone restraints on Thomas and Jordan V.M. as hereinabove alleged,  
22 resulting in injuries to Thomas and Jordan V.M.

23 203. Breach of said mandatory duties by said defendants was a substantial factor  
24 in causing injuries Thomas and Jordan V.M.

25 204. At all times herein mentioned said defendants breached the general duties of  
26 due care of educational professionals toward Thomas and Jordan V.M. who were  
27 disabled students under their guidance and care.  
28

1 205. At all times herein mentioned, said defendants willfully, knowingly,  
2 intentionally, maliciously, and routinely used or encouraged the use of prone and  
3 other restraints on special needs/disabled children, including Thomas and Jordan  
4 V.M. as a form of corporal punishment in violation of California law.

5 206. At all times herein mentioned, said defendants willfully, knowingly,  
6 intentionally, maliciously, and routinely used or encouraged the use of prone and  
7 other restraints, known by said defendants to be dangerous, on disabled children,  
8 including on Thomas and Jordan V.M. with reckless disregard for the safety of said  
9 children.

10 207. At all times herein mentioned, said defendants, in doing each of the afore-  
11 mentioned acts, willfully, knowingly, intentionally, maliciously, and routinely used, or  
12 encouraged the use of, prone and other restraints, to injure special needs/disabled  
13 children and to create a reign of terror within the educational environment, in place  
14 and instead of providing educational services for special needs/disabled children, for  
15 which they were hired.

16 208. As a direct and foreseeable result of the negligence of said defendants  
17 learning of the death of Max Benson, plaintiffs and their own injuries Thomas and  
18 Jordan V.M. suffered physical and emotional injuries.

19 209. The negligence of said defendants was a substantial factor in causing injury  
20 Thomas and Jordan V.M. to suffer physical and emotional injuries.

21 210. By virtue of the willful and wanton, knowing, intentional, malicious acts of said  
22 defendants, and acts by said defendants that were done and acts done in reckless  
23 disregard for the safety and lives of Thomas and Jordan V.M., Thomas and Jordan  
24 V.M. are entitled to punitive damages against individual non-public entity  
25 defendants according to an award at the time of trial.

26 **TENTH CAUSE OF ACTION**

27 **NEGLIGENT SUPERVISION**

28 Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST,  
RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer  
Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD,  
RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL  
DISTRICT;  
DOES 1-100

211. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
fully set forth herein.

212. Said defendants had a legal duty to exercise reasonable care in supervising  
special needs students in its respective charge pursuant to California Education Code  
section 44807 and may be held liable for injuries proximately caused by the failure to  
exercise such care.

213. Said defendants failed to exercise reasonable care in supervising Thomas and  
Jordan V.M. when they suffered the abuse as described herein.

214. Said defendants breached their duties to Thomas and Jordan V.M. when they  
failed to supervise Thomas and Jordan V.M., its administrators and staff during the  
abuse, and failed to ensure that GHS and POINT QUEST administrators and staff were  
adequately trained and provided proper supervision.

215. As a direct and proximate result of the actions of said defendants as alleged  
herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages  
according to proof.

#### **ELEVENTH CAUSE OF ACTION**

##### **NEGLIGENCE PER SE**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST,  
RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer  
Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD,  
RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL  
DISTRICT;  
DOES 1-100

216. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein

217. In doing the things herein alleged, said defendants violated the mandatory duties toward Thomas and Jordan V.M. as prescribed by state and federal law as referenced in each of the statutes as set forth here-in-above.

218. Said violations were of the statutes specifically intended to protect the class of plaintiff and to prevent the injuries as those described herein.

219. Said violations of criminal and civil law were a substantial factor in bringing about the harm alleged to Thomas and Jordan V.M. as set forth hereinabove.

220. As a direct and proximate result of the actions of said defendants as alleged herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages according to proof.

**TWELFTH CAUSE OF ACTION**  
**Tortious Breach of the Covenant**  
**Of Good Faith and Fair Dealing**

Asserted by the Plaintiffs Gloria, Thomas and Jordan V.M. Against Defendants GHS,  
Meyers, Keller, Point Quest, Troy Tickle, Kristi Gregerson, Cara Bruce and Doe  
Defendants 1-100

221. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though

fully set forth herein.

1 222. Upon the respective enrollment of Thomas and Jordan V.M. entered into a  
2 written contract with GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
3 Gregerson, Cara Bruce and DOE defendants for the education of their children.

4 223. At all times herein mentioned, Thomas and Jordan V.M. were intended third  
5 party beneficiaries to the afore-mentioned contracts entered into between their parents  
6 and defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
7 Gregerson, Cara Bruce and DOE defendants.

8 224. As a part of said contract, GHS, MEYERS, KELLER, POINT QUEST, Troy  
9 Tickle, Kristi Gregerson, Cara Bruce and DOE defendants provided each of said  
10 parents, with a copy of GHS' and POINT QUEST's parent/teacher handbook in which  
11 GHS and POINT QUEST indicated that they had a system of positive behavior  
12 intervention and support. The GHS handbook also indicated that defendant GHS  
13 would "customize" the system to support student outcomes and "interact with students  
14 in a way that promotes social proficiency." The GHS handbook states that "social  
15 competence is a skill that requires direct teaching." . The handbook assured parents  
16 that adult behavior when correcting a child would be "calm", "brief", and "respectful."

17 225. As part of the contract between said parties and defendants GHS, MEYERS,  
18 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
19 defendants promised to plaintiffs, and each of them, not to discriminate in any activity  
20 against any student based on physical or mental disability and further promised to  
21 prohibit intimidation or harassment by any employee of defendant GHS, MEYERS,  
22 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
23 defendants against any student based on physical or mental disability.

24 226. As part of said contract, defendants GHS, MEYERS, KELLER, POINT QUEST,  
25 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
26 and each of them, to use Positive Behavior Interventions and Supports to correct  
27 inappropriate behavior and to interact with students in a way which promotes social  
28 proficiency and academic success, using as examples "positive language and

redirecting behavior using a lesson.”

1 227. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST,  
2 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
3 and each of them, that adult behavior when correcting a child would be “calm,  
4 consistent, brief, immediate and respectful,” and that their behavior intervention  
5 approach involved a three step prompt “verbal, modeling, hand-over-hand.”

6 228. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST,  
7 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
8 and each of them, that restraints would be imposed only if the child was a danger to  
9 himself or others so as to de-escalate and re-integrate into classroom activities; the  
10 restraints and their possible consequences for injury and death were not truthfully or  
11 accurately described to plaintiffs, and each of them, by defendants GHS, MEYERS,  
12 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
13 defendants; and the most dangerous type of restraint, a prone restraint, was described  
14 by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson,  
15 Cara Bruce, and DOE defendants to each of Thomas and Jordan V.M.’s parents in  
16 innocuous language as a “neutral” restraint.

17 229. Plaintiffs, and each of them, did all of the significant things that the contract  
18 required them to do.

19 230. At all times herein mentioned, all of the conditions required for defendant GHS,  
20 MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and  
21 DOE defendants had occurred.

22 231. Defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
23 Gregerson, Cara Bruce, and DOE defendants unfairly interfered with the rights of  
24 plaintiffs, and each of them, to receive the benefits of the contract by engaging in the  
25 conduct as herein alleged.

26 232. Defendant GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
27 Gregerson, Cara Bruce, and DOE defendants’ interference with the afore-mentioned  
28 benefits of the contract was done in bad faith in that defendants routinely imposed

corporal punishment, in addition to dangerous prone and other restraints, on special needs/disabled children under their care.

1  
2 233. By virtue of the bad faith interference with the contract benefits by defendants  
3 GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce,  
4 and DOE defendants with said plaintiffs' contractual rights, plaintiffs MARQUES,  
5 Thomas and Jordan V.M., suffered severe emotional distress.

6 234. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER,  
7 POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with  
8 said plaintiffs' contractual rights are entitled to medical and therapeutic costs.

9 235. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER,  
10 POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with  
11 said plaintiffs' contractual rights, Gloria V.M. and the beneficiaries of said contract,  
12 Thomas and Jordan V.M., have suffered severe emotional and physical distress at  
13 having the respective children injured by being placed in prone and other restraints  
14 because of their autism and other disabilities.

15 236. By virtue of said bad faith interference with contractual benefits, all plaintiffs  
16 suffered physical and emotional injuries, and future general and special damages as  
17 herein alleged.

18 237. The bad faith interference by defendants GHS, MEYERS, KELLER, POINT  
19 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants was a  
20 substantial factor in causing each of the afore-mentioned injuries to plaintiffs, and each  
21 of them.

22 238. In doing the things herein alleged, defendants GHS, MEYERS, KELLER, POINT  
23 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants acted  
24 recklessly and with conscious disregard for the rights of plaintiffs, and each of them,  
25 willfully and maliciously exceeding the bounds of all behavior in a civilized behavior,  
26 brutalizing special needs/disabled children who had been entrusted to their care by  
27 their parents so as to receive an education that would allow their children to grow into  
28 well adjusted, well-functioning adults. As a consequence, plaintiffs, and each of them,

are entitled to punitive damages.

### THIRTEENTH CAUSE OF ACTION

#### FRAUD

Asserted by Gloria V.M. against GHS, POINT QUEST, PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOLS; TICKLE, GREGERSON, BRUCE, RAMSEY, MYERS, KELLY, NARAN, TOLLESTRUP, WEBBER, ROYER, DAVIDSON

239. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

240. On or about the date of enrolling their respective children in defendant GHS, defendants, GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, represented to Gloria V.M. that said defendants would not to discriminate in any activity against any student at GHS based on physical or mental disability under Title IX, Education Code section 106.8(a)(d) and 106.9.8(a); that they prohibited intimidation or harassment by any employee of defendants GHS and POINT QUEST against any student based on physical or mental disability; that said defendants and their employees would use Positive Behavior Interventions and Supports to correct inappropriate behavior and to interact with students in a way which promotes social proficiency and academic success, including using "positive language and redirecting behavior using a lesson"; that behavior by GHS' staff when correcting a child would be "calm, consistent, brief, immediate and respectful,"; that GHS and POINT QUEST behavior intervention approaches involved a three step prompt "verbal, modeling, hand-over-hand"; and that restraints would be imposed only if the child was a danger to himself or others so as to de-escalate and re-integrate into classroom activities.

241. On or about the dates of the respective enrollment of Thomas and Jordan V.M., at GHS and POINT QUEST, PLACER and ROCKLIN UNIFIED SCHOOLS and their employees represented to Gloria V.M that they were required to sign a form allowing defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, to impose restraints on said plaintiffs' respective children, with the implied threat that if they did not sign the form their respective children would not be enrolled at GHS, which was the

only school available to educate said children, and therefore, the parents would be in violation of California's mandatory education law.

1  
2 242. That the afore-mentioned representations of defendants, were false, and Gloria  
3 V.M. learned that they were false on or after November 29, 2018, upon the death of  
4 MAX, when they discovered that they did not have to allow or consent to the use of  
5 restraints against their disabled children.

6 243. Said defendants knew that said representations were false when they made  
7 them, and/or said defendants made the representations recklessly and without regard  
8 for the truth of said representations.

9 244. Said defendants intended that GLORIA V.M. rely on said representations.

10 245. GLORIA V.M. reasonably relied on said representations, and enrolled their  
11 respective children at defendant GHS to receive an education.

12 246. GLORIA V.M. were harmed by said intentional representations, in that each of  
13 said plaintiffs suffered severe emotional distress upon seeing their respective child  
14 injured at the hands of GHS and its staff after being placed in prone and other types  
15 of restraints for known behaviors related to the child's special needs and disability, and  
16 which behaviors did not present a clear and present danger to himself or others; and  
17 further plaintiffs, Thomas and Jordan V.M. suffered severe emotional distress when  
18 MAX was injured and killed after he had a behavioral outburst as a result of being  
19 isolated from the rest of the class with no staff member near him to keep him calm.

20 247. GLORIA V.M. reliance on said representations was a substantial factor in  
21 causing the severe emotional distress of said plaintiffs.

22 248. At all relevant times, said defendants acted with conscious disregard of the rights  
23 and feelings of GLORIA V.M. , and acted with the knowledge of, or with reckless  
24 disregard for, the fact that their conduct was certain to cause severe emotional distress  
25 to said plaintiffs. By virtue of the foregoing, said plaintiffs are entitled to recover  
26 punitive and exemplary damages from non-public entity defendants according to proof  
27 at the time of trial.

28 **FOURTEENTH CAUSE OF ACTION**

**Title II of the Americans with Disabilities Act of 1990,  
42 U.S.C. Sec's 12101 et seq.**

Thomas, V.M. and Jordan V.M. vs CDE,  
Rocklin Unified Schools, and Placer County SELPA

249. Plaintiffs incorporate by reference all preceding paragraphs.

250. Title II of the ADA prohibits public entities from denying persons with disabilities the benefits of its programs, services or activities. 28 U.S.C. § 12132.

251. Defendants CDE, Rocklin Unified Schools, and Placer County SELPA are public entities.

252. Thomas, V.M. and Jordan V.M. were at all relevant times students with disabilities who had been placed at GHS via their IEPs.

253. The ADA is violated not only by outright discrimination but also when a public entity engages in "forms of discrimination which deny disabled persons public services disproportionately due to their disability." *Crowder v. Kitagawa*, 81 F. 3d 1480, 1483 (9th Cir. 1996); see also, *Mark H. v. Lemahieu*, 513 F.3d 922, 937 (9th Cir. 2008). The ADA prohibits governmental agencies from denying persons with disabilities from "the benefits" of their programs. *Mark H.*, 513 F.3d at 937. The ADA requires more than just some access to governmental services; it requires "meaningful access". *Id.*

254. A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

- a. Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- b. Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- c. Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the public entity's program;

- d. Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

28 C.F.R. § 35.130(b)(1)(ii)(iii)(v) and (vii).

255. A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration-

- a. That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;
- b. That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's program with respect to individuals with disabilities; or
- c. That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control or are agencies of the same State.

28 C.F.R. § 35.130(b)(3).

256. A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability. 28 C.F.R. § 35.130(b)(6).

257. A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. § 35.130(b)(7).

258. A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

28 C.F.R. § 35.130(d).

259. The LEA Defendants discriminated against the Plaintiff Students through their contractual arrangements with GHS to provide education services to LEA students with disabilities. Through GHS:

- a. The LEA Defendants provided the Plaintiff Students with educational aid, benefits and services that were not equal to those provided to students without disabilities;

1           b.       The LEA Defendants provided the Plaintiff Students with educational  
2 aid, benefits and services that did not afford equal opportunity to obtain the same  
3 result, to gain the same benefit, or to reach the same level of achievement as that  
4 provided to LEA students without disabilities;

5           c.       The LEA Defendants aided and perpetuated disability discrimination  
6 against the Plaintiff Students by providing significant state and federal financial  
7 assistance to GHS, which discriminated against LEA students on the basis of their  
8 disabilities by subjecting them to repeated physical and emotional abuse in  
9 response to predictable, disability-related behavior which did not constitute a clear  
10 and present danger to the safety of the students or others and which could have  
11 been addressed by less restrictive measures, including those outlined in the  
12 students' behavioral intervention plans;

13           d.       The LEA Defendants limited the Plaintiff Students from enjoying their  
14 right to a free public education in a safe placement, free from discrimination or  
15 abuse; and

16           e.       The LEA Defendants used administrative methods-specifically the  
17 policies and practices of GHS regarding behavioral interventions-that subjected  
18 Plaintiff Students to disability discrimination and defeated or substantially impaired  
19 the objective of providing a free public education to the Plaintiff Students.

20 260.       Moreover, the LEA Defendants directly discriminated against the Plaintiff  
21 Students by administering their public education program and local plans in a  
22 manner that resulted in placing and keeping students with disabilities in an unsafe,  
23 abusive educational placement. The LEA Defendants did not sufficiently-if at  
24 all-investigate, monitor, or supervise the placement. Nor did it acknowledge or direct  
25 GHS to correct its known violations of state and federal law against the Plaintiff  
26 Students. As a result, the Plaintiff Students were not afforded education services  
27 equal to those afforded to other students and were subject to disability  
28 discrimination and repeated physical and emotional abuse.

1       261.     The LEA Defendants failed to make reasonable modifications to their  
2       program of providing special education services to children within the LEA, such that  
3       LEA students with disabilities would not be subject to discrimination and abuse in  
4       their educational placements. These modifications-meaningful investigations and  
5       evaluations of the NPS prior to placing an LEA student there and forceful oversight,  
6       investigation, and measures to ensure compliance with state and federal laws during  
7       the placement, including site visits and regular review of school and student records  
8       and BERs-would not have constituted a fundamental alteration in the LEAs'  
9       programs of providing educational services to their students.

10     262.     GHS's use of restraints was so excessive in frequency, duration, force and  
11     purpose that any educator or monitoring official who personally observed the  
12     program for more than an hour would realize that the school and its staff had  
13     exceeded the legal bounds for emergency interventions and were physically abusing  
14     their students. However, the CDE and the LEAs ignored their legal duties to  
15     supervise and monitor the program and continued to re-certify GHS and place and  
16     leave vulnerable students in the school's care.

17     263.     The LEA Defendants were deliberately indifferent to disability discrimination  
18     and abuse of which they knew or should have known had they taken seriously their  
19     duties to investigate and evaluate GHS prior to placing LEA students there; to  
20     supervise, monitor, investigate, and ensure the legal compliance of GHS during the  
21     placement; and to remove LEA students when it became clear that GHS was not a  
22     safe placement and was subjecting the students to physical and emotional abuse  
23     and discriminating against them on the basis of their disabilities.

24     264.     Defendant CDE knew or should have known that: students with disabilities at  
25     nonpublic schools-including GHS-were being restrained frequently, for excessive  
26     periods of time, with excessive force, and in response to predictable,  
27     disability-related behavior that did not constitute a clear and present danger to the  
28     students' or others' safety; the types of restraints being used against children with  
disabilities were dangerous and have resulted in serious injury to and death of

1 students with disabilities in response to behavior that was known to be a  
2 manifestation of the students' disabilities; that the particular disabilities of the  
3 children against whom these restraints were used made the restraints even more  
4 dangerous; and that the restraints were not only ineffective and contrary to the  
5 students' BIPs, but more often than not aggravated the students' behavioral  
6 problems.

7 265. Defendant CDE discriminated against Plaintiffs on the basis of their  
8 disabilities by:

- 9 a. Abdicating its duties to supervise, monitor, investigate, train, and  
10 ensure legal compliance of nonpublic schools, including GHS, with  
11 laws designed to protect students with disabilities from  
12 discrimination and abuse;
- 13 b. Failing to take even minimal measures to ensure statewide  
14 compliance with state and federal laws within nonpublic schools,  
15 including GHS;
- 16 c. Administering its licensing program of certifying, monitoring,  
17 investigating and taking corrective action against nonpublic  
18 schools which provide educational services to children with  
19 disabilities in a discriminatory, cursory, and indifferent  
20 manner;
- 21 d. Failing to make reasonable modifications to its policies and  
22 practices regarding certification, monitoring, supervision,  
23 investigation, and legal compliance of nonpublic schools in  
24 light of repeated notifications from the U.S. Department of  
25 Education and other sources regarding the disproportionate  
26 use of restraints on children with disabilities and their tragic  
27 outcomes; and
- 28 e. Completely abandoning its duty to monitor and supervise the use of  
emergency behavioral interventions in nonpublic schools under  
Cal. Ed. Code § 56521(b).

266. The CDE knew and was deliberately indifferent to the fact that children with  
disabilities were being restrained at far greater rates than children without disabilities  
and that the rates of restraint use were significantly higher at "nonpublic" schools  
such as GHS than at public schools. It took no action to strengthen its oversight and  
monitoring of nonpublic schools or laws restricting the use of physical interventions.  
The CDE knew and was deliberately indifferent to allegations that children with  
disabilities being improperly restrained at GHS and failed to conduct an emergency

1 site visit when they had a substantial reason to believe that there was an immediate  
2 danger to the health, safety and welfare of students at GHS. The CDE did not  
3 conduct a real investigation or visit the school until after GHS staff killed a student  
4 by restraining him.

5 267. Defendants' actions and failures to act were a substantial factor in causing  
6 physical and emotional injuries to the Plaintiff Students as outlined above.

7 268. Plaintiffs seek compensatory damages and attorneys' fees and costs.

8 **FIFTEENTH CLAIM FOR RELIEF**  
9 **Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

10 Thomas, V.M. and Jordan V.M. vs CDE,  
11 Rocklin Unified Schools, and Placer County SELPA

12 269. Plaintiffs incorporate by reference all preceding paragraphs

13 270. Section 504 prohibits entities that receive federal financial assistance from  
14 denying persons with disabilities the benefits of their programs, services or activities  
15 or otherwise discriminate against them on the basis of their disabilities. 29 U.S.C. §  
16 794; 34 C.F.R. pt. 104.

17 271. Thomas V.M. and Jordan V.M. were at all relevant times students with  
18 disabilities who had been placed at GHS by the LEAs in which they resided via their  
19 IEPs.

20 272. The CDE and the LEA Defendants receive federal financial assistance to  
21 provide special education services to children with disabilities in California. 20  
22 U.S.C. §§ 1411-1413.

23 273. Defendant GHS was a "nonpublic school" that contracted with the LEA  
24 Defendants to provide educational services to students with disabilities, including  
25 the Plaintiff Students, on behalf of the LEA Defendants in exchange for the state  
26 and federal financial assistance provided to the LEA Defendants to perform those  
27 services. Cal. Ed. Code § 56365. Section 504 therefore applies to GHS. 34 C.F.R.  
28 § 104.2 ("This part applies to each recipient of Federal financial assistance from the  
Department of Education and to the program or activity that receives such  
assistance.").

274. Section 504 prohibits recipients of federal financial assistance from directly or through contractual, licensing, or other arrangements, on the basis of disability:

- a. Denying a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit or service;
- b. Affording a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- c. Providing a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others;
- d. Aiding or perpetuating discrimination against a qualified person with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to the beneficiaries of the recipients' program or activity;
- e. Otherwise limiting a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

C.F.R. 104.4(b)(1)(i)(ii)(iii)(v) and (vii).

275. Section 504 prohibits recipients of federal financial assistance from directly or through contractual or other arrangements, utilizing criteria or methods of administration:

- a. That have the effect of subjecting persons with disabilities to discrimination on the basis of their disabilities;
- b. that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the recipient's program or activity with respect to persons with disabilities; or
- c. That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

C.F.R. § 104.4(b)(4).

276. GHS engaged in deliberate discrimination against the Plaintiff Students on the basis of their disabilities. GHS and its staff subjected the Plaintiff Students to illegal, excessive and harmful restraints in response to known, disability-related behaviors that did not constitute a clear and present danger to the safety of the students or others and that could have been addressed by less restrictive measures, including

those outlined in the students' BIPs. GHS discriminated against the Plaintiff Students by:

- a. Denying them the opportunity to participate in educational services free from physical and emotional abuse;
- b. Providing them educational services that were not equal to or as effective as those afforded to children without disabilities;
- c. Preventing students with disabilities from enjoying their rights to receive a free, public education and the benefits that come with it in an environment free from physical and emotional abuse; and
- d. Administration methods, particularly those regarding behavioral interventions-that subjected students to disability discrimination and that defeated and/or substantially impaired the accomplishment of the students' educational objectives.

277. The LEA Defendants discriminated against the Plaintiff Students through their contractual arrangements with GHS to provide education services to LEA students with disabilities by:

- a. Denying them the opportunity to participate in educational services free from physical and emotional abuse;
- b. Providing them educational services that were not equal to or as effective as those afforded to children without disabilities;
- c. Preventing students with disabilities from enjoying their rights to receive a free, public education and the benefits that come with it in an environment free from physical and emotional abuse; and
- d. Using administration methods, particularly those regarding behavioral interventions-that subjected students to disability discrimination and that defeated and/or substantially impaired the accomplishment of the students' educational objectives.

278. The LEA Defendants aided and perpetuated disability discrimination against the Plaintiff Students by providing significant state and federal financial assistance to GHS, which discriminated against LEA students on the basis of their disabilities by subjecting them to repeated physical and emotional abuse in response to predictable, disability-related behavior which did not constitute a clear and present danger to the safety of the students or others and which could have been addressed by less restrictive measures, including those outlined in the students' behavioral intervention plans.

279. Moreover, the LEA Defendants directly discriminated against the Plaintiff

1 Students by administering their public education program and local plans in a  
2 manner that resulted in placing and keeping students with disabilities in an unsafe,  
3 abusive educational placement. The LEA Defendants did not sufficiently-if at  
4 all-investigate, monitor, or supervise the placement. Nor did they acknowledge or  
5 direct GHS to correct its known violations of state and federal law against the  
6 Plaintiff Students. As a result, the Plaintiff Students were not afforded education  
7 services equal to those afforded to other students and were subject to disability  
8 discrimination and repeated physical and emotional abuse.

9 280. GHS's use of restraints was so excessive in frequency, duration, force and  
10 purpose that any educator or monitoring official who personally observed the  
11 program for more than an hour would realize that the school and its staff had  
12 exceeded the legal bounds for emergency interventions and were physically abusing  
13 their students. However, the CDE and the LEAs ignored their legal duties to  
14 supervise and monitor the program and continued to re-certify GHS and place and  
15 leave vulnerable students in the school's care.

16 281. The LEA Defendants were deliberately indifferent to disability discrimination  
17 and abuse of which they knew or should have known had they taken seriously their  
18 duties to investigate and evaluate GHS prior to placing LEA students there; to  
19 supervise, monitor, investigate, and ensure the legal compliance of GHS during the  
20 placement; and to remove LEA students when it became clear that GHS was not a  
21 safe placement and was subjecting the students to physical and emotional abuse  
22 and discriminating against them on the basis of their disabilities.

23 282. Defendant CDE knew or should have known that: students with disabilities at  
24 nonpublic schools-including GHS-were being restrained frequently, for excessive  
25 periods of time, with excessive force, and in response to predictable,  
26 disability-related behavior that did not constitute a clear and present danger to the  
27 students' or others' safety; the types of restraints being used against children with  
28 disabilities were dangerous and have resulted in serious injury to and death of

1 students with disabilities in response to behavior that was known to be a  
2 manifestation of the students' disabilities; that the particular disabilities of the  
3 children against whom these restraints were used made the restraints even more  
4 dangerous; and that the restraints were not only ineffective and contrary to the  
5 students' BIPs, but more often than not aggravated the students' behavioral  
6 problems.

7 283. Defendant CDE discriminated against Plaintiffs on the basis of their  
8 disabilities by:

- 9 a. Abdicating its monitoring, investigation and compliance duties  
10 with regard to nonpublic schools, including GHS;
- 11 b. Failing to take even minimal measures to ensure statewide  
12 compliance with state and federal laws within nonpublic  
13 schools, including GHS;
- 14 c. Administering its licensing program of certifying, monitoring,  
15 investigating and taking corrective action against nonpublic  
16 schools which provide educational services to children with  
17 disabilities in a discriminatory, cursory, and indifferent manner;
- 18 d. Failing to make reasonable modifications to its policies and  
19 practices regarding certification, monitoring, supervision,  
20 investigation, and compliance of nonpublic schools in light of  
21 repeated notifications from the U.S. Department of Education  
22 regarding the disproportionate use of restraints on children  
23 with disabilities and their tragic outcomes; and
- 24 e. Completely abandoning its duty to monitor and supervise the  
25 use of emergency behavioral interventions in nonpublic  
26 schools under Cal. Ed. Code § 56521(b).

27 284. The CDE knew and was deliberately indifferent to the fact that children with  
28 disabilities were being restrained at far greater rates than children without disabilities  
and that the rates of restraint use were significantly higher at "nonpublic" schools  
such as GHS than at public schools. It took no action to strengthen its oversight and  
monitoring of nonpublic schools or laws restricting the use of physical interventions.  
The CDE knew and was deliberately indifferent to allegations that children with  
disabilities were being improperly restrained at GHS and failed to conduct an  
emergency site visit when they had a substantial reason to believe that there was an  
immediate danger to the health, safety and welfare of students at GHS. The CDE

did not conduct a real investigation or visit the school until after GHS staff killed a student by restraining him.

285. Defendants actions and failures to act were a substantial factor in causing physical and emotional injuries to the Plaintiff Students as outlined above.

286. Plaintiffs seek compensatory damages and attorneys' fees and costs.

### SIXTEENTH CLAIM FOR RELIEF

#### 42 U.S.C. § 1983, Fourth Amendment to the U.S. Constitution

MARQUES, against GHS, KELLER, MYERS, RAMSEY, CHRISTENSEN, CHAMBERS, BRUCE, ZOMBURY, ANDERSON, CORY QUINCY, BYRNA QUINCY, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSON, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

DOES 1-100.

287. Plaintiffs incorporate by reference all preceding paragraphs.

288. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, used excessive force against Marques, Thomas, V.M. and Jordan V.M. when they restrained them in response to predictable, disability-related behavior that did not constitute a clear and present danger to Marques, Thomas, V.M. and Jordan V.M. 's or others' safety and that could have been addressed by less restrictive measures, including those outlined in their BIPs. Defendants' use of force was objectively unreasonable in light of

Marques, Thomas, V.M. and Jordan V.M. 's behavior and California law restricting the use of physical interventions. Defendants' use of restraints was also unreasonable in their frequency, duration, pressure and restrictions applied, lack of monitoring of Marques, Thomas, V.M. and Jordan V.M. health condition, and the pain and injuries caused to Marques, Thomas, V.M. and Jordan V.M.

289. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, violated the Plaintiff Students' Fourth Amendment rights when they instituted and maintained a policy and practice at GHS of restraining students in response to predictable, disability-related behavior that did not constitute a clear and present threat to the students' or others' safety and that could have been addressed by less restrictive interventions, such as those outlined in students' BIPs.

290. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, were acting under color of state law when they instituted and practiced a policy of restraining students, including the Plaintiff Students, in response to predictable, disability-related behavior that did not constitute a clear and present threat to the students' or others' safety and that could have been addressed by less restrictive interventions, such as those outlined in students' BIPs.

291. Defendants GHS and POINT QUEST were performing a public function that the LEA Defendants were legally required to provide and for which they were receiving state and federal funds-that of providing free educational services, including special education, to the Plaintiff Students. If an LEA does not have an

appropriate special education placement within its district, it may place a student in a nonpublic school. Cal. Ed. Code § 56365. In turn, the student "will be deemed to be enrolled in public schools" for the purpose of state and federal funding. Cal. Ed. Code § 56365(b). However, the LEAs are to monitor and supervise the placement and transition the student back to the public schools if the NPS is no longer appropriate to meet the student's needs. Cal. Ed. Code § 56366(a)(2)(B). The LEA continues to be responsible for the child's placement and special education needs and must participate in their IEP meetings. 20 U.S.C. § 1414(d)(1)(B)(iv).

292. The Plaintiff Students were placed and kept at GHS by the LEA Defendants pursuant to their IEPs. GHS had a Master Contract with each of the Defendant LEAs to provide education services to the Plaintiff Students.

293. GHS and POINT QUEST sent BERs to the LEA Defendants demonstrating the excessive and illegal nature of the restraints, but this information was filed away and ignored. The IEP teams, in which the LEA Defendants participated, did not review and modify students' BIPs when it was clear they were ineffective or not being followed. Despite knowing that their students were being illegally restrained by GHS staff, the LEA Defendants left the Plaintiff Students at the school and did not take any action to stop the restraints. Because they were unable and unwilling to provide the educational services themselves, the LEA Defendants ignored and thereby allowed the violations of Plaintiffs' constitutional rights, knowingly accepting the benefits of GHS's illegal behavior.

294. At all times relevant to the complaint, the individual GHS and POINT QUEST Defendants were acting in the performance of their official duties to provide educational services, including special education services, to the Plaintiff Students pursuant to state and federal law and GHS's contract with the LEA Defendants.

295. The GHS and POINT QUEST Defendants knowingly deprived the Plaintiff Students of their Fourth Amendment rights to be free from excessive force.

296. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE,

HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, , deprived Plaintiffs Thomas and Jordan V.P. of their Fourth Amendment rights to be free from excessive force. As administrators of the PLACER COUNTY SELPA Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON administrators for ROCKLIN UNIFIED SCHOOLS, were responsible for overseeing the Plan's implementation, which included: 1) coordinating with school districts to ensure that all special education students in the Plan area have equal access to the full continuum of programs and services; 2) working with the school districts to identify unmet student needs and resources to meet those needs; 3) receiving, distributing, and monitoring the use of special education funding; 4) entering into Master Contracts with nonpublic schools, reviewing and monitoring those contracts, issuing and monitoring the assurances for those contracts, and maintaining updated contracts; and 5) submitting for approval to the Superintendents' Council policies and procedures governing regional and District-operated programs, including nonpublic schools. As administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON administrators for ROCKLIN UNIFIED SCHOOLS had a duty to monitor GHS as a nonpublic school with which it had a Master Contract to provide services for students in the Plan area. They also had a duty to monitor the use of special education funding and ensure that it was not going to programs that used behavioral interventions that violated state or federal law. Cal. Ed. Code §§ 56521.2, 56523(d).

297. GHS, MEYER, KELLER, RAMSEY, CHRISTENSEN, ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS, BRUCE, and DOE defendants deprived Plaintiff Marques of his Fourth Amendment rights to be free from excessive force.

298. Despite widespread knowledge within the educational community about the disproportionate use of excessive, illegal and dangerous restraints on children with disabilities and in nonpublic schools, as administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were deliberately indifferent to the Fourth Amendment rights of students in the YOLO SELPA plan area to be free from excessive force. They maintained a policy and practice within YCOE and YOLO SELPA of ignoring their duties to monitor GHS and ensure that it was complying with state and federal laws prohibiting discrimination and restricting the use of physical behavior interventions.

299. From media reports, U.S. Department of Education publications and letters, and reports published by nonprofits advocating for students with disabilities, it was well-known within the educational community that children with disabilities were being subjected to illegal restraints at a greater rate than those without disabilities and that nonpublic schools restrained students at higher rates. As administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were deliberately indifferent to this information and failed to implement policies and procedures for training, monitoring and supervision of nonpublic school placements. Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON failed to supervise and train staff to ensure that they understood the laws preventing illegal restraints and were adequately monitoring the NPS placements of PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOL students to ensure that they were not being subjected to excessive force.

300. At all times relevant to the complaint, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON were acting under color of state law in the performance of their official duties as administrators for public entities, PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOLS.

1       301.       Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth  
2       DAVIDSON 's actions and failures to act were a substantial factor in causing  
3       Thomas and Jordan V.M.'s physical and emotional pain and suffering.

4       302.       Defendants and Defendants Kristain ROYER, Beth DAVIDSON,  
5       administrators for ROCKLIN UNIFIED SCHOOLS

6       303.       Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN  
7       UNIFIED SCHOOLS deprived Jordan V.M. of their Fourth Amendment rights to be  
8       free from excessive force. RUSD and Defendants Kristain ROYER, Beth  
9       DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS wer responsible for  
10      the coordination of special education services and programs within the RUSD and  
11      the implementation of the PLACER COUNTY SELPA plan. This included assuring  
12      that the District's programs-including any nonpublic school in which the District has  
13      placed a special education student-did not discriminate against children on the  
14      basis of disability and followed state and federal education laws, including those  
15      prohibiting the use of excessive force against students. DAVIDSON was the direct  
16      supervisor of Defendant ROYER , the RUSD Program Specialist assigned to  
17      Jordan V.M.. ROYER was responsible for developing Jordan's IEP, ensuring that  
18      Jordan's educational placement at POINT QUEST was appropriate, monitoring the  
19      delivery of services to Jordan, and ensuring that the program in which Jordan had  
20      been placed complied with state and federal laws, including those related to the  
21      use of behavioral interventions and use of physical force. ROYER was also  
22      responsible for coordinating and monitoring the implementation of educational  
23      programs and services at nonpublic schools at which RUSD students had been  
24      placed.

25      304.       Throughout Jordan's's placement at POINT QUEST, ROYER and  
26      DAVIDSON received information and documents demonstrating that POINT  
27      QUEST was subjecting Jordan to excessive force. Specifically, POINT QUEST  
28      staff was placing Jordan in illegal restraints POINT QUEST in response to  
    predictable, disability-related behaviors which did not pose a clear and present

1 danger to the safety of the student or others and could have been addressed by  
2 less restrictive interventions. This information included, but was not limited to,  
3 Behavior Emergency Reports, information provided by POINT QUEST staff at  
4 Jordan's IEP meetings, and documents accompanying Jordan's IEP meetings.

5 305. ROYER AND DAVIDSON were deliberately indifferent to the knowledge that  
6 POINT QUEST was subjecting Jordan to excessive force. Defendants did nothing  
7 to investigate POINT QUEST to stop the restraints, or remove to a safe, approved  
8 placement.

9 306. From media reports, U.S. Department of Education publications and letters,  
10 and reports published by nonprofits advocating for students with disabilities, it was  
11 well-known within the educational community that children with disabilities were  
12 being subjected to illegal restraints at a greater rate than those without disabilities  
13 and that nonpublic schools restrained students at higher rates. As administrators  
14 for ROCKLIN UNIFIED SCHOOLS, Kristain ROYER, Beth DAVIDSON, deprived  
15 Jordan V.M. was deliberately indifferent to this information and failed to implement  
16 policies and procedures for training, monitoring and supervision of nonpublic school  
17 placements. DAVIDSON failed to supervise and train the program specialists  
18 working under her to ensure that they understood the laws preventing illegal  
19 restraints and were adequately monitoring the NPS placements of RUSD students  
20 to ensure that they were not being subjected to excessive force.

21 307. At all times relevant to the complaint, Kristain ROYER, Beth DAVIDSON  
22 were acting under color of state law in the performance of their official duties for  
23 public entity RUSD.

24 308. Kristain ROYER, Beth DAVIDSON's actions and failures to act were a  
25 substantial factor in causing Jordan's physical and emotional pain and suffering.

26 309. GHS, MEYER, KELLER, RAMSEY, ZOMBURY, ANDERSON, ROBB, BRUCE,  
27 CORY, BRYNA, CHRISTENSEN, CHAMBERS, BRUCE, and DOE defendants'  
28 actions and failures to act were a substantial factor in causing Marques' physical and  
emotional pain and suffering.

**DAMAGES**

WHEREFORE, Plaintiffs pray for judgment against Defendants, as follows:

**FIRST CAUSE OF ACTION  
INTERFERENCE WITH THE EXERCISE OF  
CIVIL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTIONS 51et seq**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SECOND CAUSE OF ACTION  
INTERFERENCE WITH PLAINTIFFS' EXERCISE OF CIVIL RIGHTS IN VIOLATION  
OF CALIFORNIA CIVIL CODE SECTION 51.7**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress

6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**THIRD CAUSE OF ACTION  
INTERFERENCE WITH PLAINTIFFS' EXERCISE OF  
CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FOURTH CAUSE OF ACTION  
VIOLATIONS OF CALIFORNIA EDUCATION CODE  
§§ 200, 201, 220 and 260, et seq.**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;

4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FIFTH CAUSE OF ACTION  
ASSAULT AND BATTERY CONSTITUTING TORTURE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SIXTH CAUSE OF ACTION  
ASSAULT AND BATTERY**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;

2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SEVENTH CAUSE OF ACTION  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**EIGHTH CAUSE OF ACTION  
FALSE IMPRISONMENT, CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**NINTH CAUSE OF ACTION  
NEGLIGENCE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress;
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**TENTH CAUSE OF ACTION  
NEGLIGENT SUPERVISION**

- 1 General damages for Pain and suffering in an amount to be determined according to
- 2 proof at trial;
- 3 2. Medical and future medical and related expenses in an amount to be
- 4 determined by proof at trial;
- 5 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 6 4. Impairment of earning capacity for in an amount to be determined by proof at
- 7 trial;
- 8 5. General damages for severe emotional and psychological distress
- 9 6. Pain and suffering;
- 10 7. Statutory damages;
- 11 8. Attorneys' fees;
- 12 9. Costs of this action;
- 13 10. Such other and further relief as the Court deems just and proper.

**ELEVENTH CAUSE OF ACTION  
NEGLIGENCE PER SE**

- 14
- 15
- 16 1. General damages for Pain and suffering in an amount to be determined
- 17 according to proof at trial;
- 18 2. Medical and future medical and related expenses in an amount to be
- 19 determined by proof at trial;
- 20 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 21 4. Impairment of earning capacity for in an amount to be determined by proof at
- 22 trial;
- 23 5. General damages for severe emotional and psychological distress
- 24 6. Pain and suffering;
- 25 7. Statutory damages;
- 26 8. Attorneys' fees;
- 27 9. Costs of this action;
- 28 10. Such other and further relief as the Court deems just and proper.

**TWELFTH CAUSE OF ACTION  
Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing**

- 1 1. General damages for Pain and suffering in an amount to be determined according
- 2 to proof at trial;
- 3 2. Medical and future medical and related expenses in an amount to be determined
- 4 by proof at trial;
- 5 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 6 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 7 5. General damages for severe emotional and psychological distress
- 8 6. Pain and suffering;
- 9 7. Statutory damages;
- 10 8. Attorneys' fees;
- 11 9. Punitive and exemplary damages against all non-public entity Defendants
- 12 10. Costs of this action;
- 13 11. Such other and further relief as the Court deems just and proper.

**THIRTEENTH CAUSE OF ACTION  
FRAUD**

- 15 1. General damages for Pain and suffering in an amount to be determined according
- 16 to proof at trial;
- 17 2. Medical and future medical and related expenses in an amount to be determined
- 18 by proof at trial;
- 19 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 20 4. Impairment of earning capacity for in an amount to be determined by proof at trial;
- 21 5. General damages for severe emotional and psychological distress
- 22 6. Pain and suffering;
- 23 7. Statutory damages;
- 24 8. Attorneys' fees;
- 25 9. Punitive and exemplary damages against all non-public entity Defendants
- 26 10. Costs of this action;
- 27 11. Such other and further relief as the Court deems just and proper.
- 28

**FOURTEENTH CAUSE OF ACTION**  
**Title II of the Americans with Disabilities Act of 1990,**  
**42 U.S.C. Sec's 12101 et seq.**

1. Compensatory Damages
2. Attorneys' fees and costs

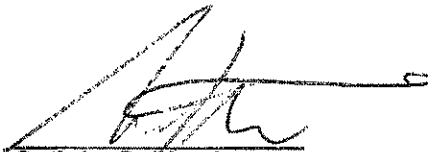
**FIFTEENTH CLAIM FOR RELIEF**  
**Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

1. Compensatory Damages
2. Attorneys' fees and costs

**SIXTEENTH CLAIM FOR RELIEF**  
**42 U.S.C. § 1983, Fourth Amendment to the U.S. Constitution**

1. Compensatory Damages
2. Punitive Damages
- c. Attorneys' fees and costs

Dated: October 18, 2021

  
Seth L. Goldstein,  
Attorney at Law

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO

MINUTE ORDER

CASE NO: PC20200429  
DATE: 09/28/21

LOUIE ANDREAS MARQUES vs GUIDING HANDS SCHOOL  
TIME: 3:30 DEPT: 4

CASE MANAGEMENT CONFERENCE RE: STATUS

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Honorable Judge Pro Tem Jennifer Peterson presiding. Clerk: Wendy Warden Court Reporter: None. Baileff: None.

LOUIE ANDREAS MARQUES, GLORIA V M, THOMAS V M, JORDAN V M present by counsel Seth Goldstein via vCourt.

A Case Management/ADR Assessment Conference was held this date and, good cause therefore appearing, the following determinations were made:

Hearing continued to 12/21/21 at 3:30 in department 4

Notice to be given by Plaintiff.

**2. MARQUES, ET AL. v. GUIDING HANDS SCHOOL, ET AL., PC20200429**

**Amended Motion for Leave to File Second Amended Complaint**

**TENTATIVE RULING # 2: THE AMENDED MOTION IS GRANTED.  
PLAINTIFFS MUST FILE THE SECOND AMENDED COMPLAINT NO  
LATER THAN NOVEMBER 12, 2021.**

IN THE SUPERIOR COURT OF CALIFORNIA  
COUNTY OF EL DORADO  
DEPARTMENT 4

LOUIE ANDREAS MARQUES )

Plaintiff/Petitioner, )

v. )

GUIDING HANDS SCHOOL )

Defendant/Respondent. )

Case No. **PC20200429**

Event Date: **10/22/2021**

Event Type: **Motion Hearing**

Mtn/OSC: **Other**

Add'l Info: **FOR LEAVE TO FILE SECOND**

**AMENDED[COMPLAINT[000101[0001-0002-0003-0004[**

Judge:

Clerk:

**Wendy Warden**

Reporter:

**Civil Unlimited - Minutes**

**Appearances:**

Honorable Judge Michael J. McLaughlin presiding.

There are no appearances.

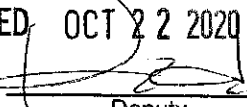
**Nature of Proceedings:**

Motion Rulings - Minutes Orders Entries

Prompt	Text	Other Information
Motion Rulings	Amended Motion is granted. The court adopts the tentative ruling.	Plaintiffs must file the Second Amended Complaint no later than November 12, 2021.

Plaintiffs' counsel to prepare order.

CIV-120

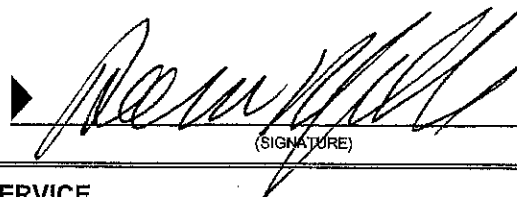
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Domenic D. Spinelli SBN: 131192 SPINELLI DONALD & NOTT 601 University Ave., Suite 225 Sacramento, CA 95825  TELEPHONE NO.: 916.448.7888 FAX NO.: 916.448.6888 E-MAIL ADDRESS: domenics@sdnlaw.com ATTORNEY FOR (Name): JENNIFER GALAS		FOR COURT USE ONLY  EL DORADO CO. SUPERIOR CT.  FILED OCT 22 2020 BY:  Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF El Dorado STREET ADDRESS: 3321 Cameron Park Drive MAILING ADDRESS: SAME AS STREET CITY AND ZIP CODE: Cameron Park, CA 95682 BRANCH NAME: CIVIL		
PLAINTIFF/PETITIONER: Marques, et al. DEFENDANT/RESPONDENT: Guiding Hands School, Inc., et al		
<b>NOTICE OF ENTRY OF DISMISSAL AND PROOF OF SERVICE</b> <input checked="" type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Other (specify):		CASE NUMBER:  PC 20200429

**TO ATTORNEYS AND PARTIES WITHOUT ATTORNEYS:** A dismissal was entered in this action by the clerk as shown on the Request for Dismissal. (Attach a copy completed by the clerk.)

Date: October 21, 2020

DOMENIC D. SPINELLI

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

  
 (SIGNATURE)

### PROOF OF SERVICE

- I am over the age of 18 and not a party to this cause. My residence or business address is: 601 University Ave., Suite 225, Sacramento, CA 95825
- ☒ I am a resident of or employed in the county where the mailing occurred. I served a copy of the Notice of Entry of Dismissal and Request for Dismissal by mailing them, in a sealed envelope with postage fully prepaid, as follows:
  - ☐ I deposited the envelope with the United States Postal Service.
  - ☒ I placed the envelope for collection and processing for mailing following this business's ordinary practice with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
  - Date of deposit: 10/21/20
  - Place of deposit (city and state): Sacramento, CA 95825
  - Addressed as follows (name and address): Seth L. Goldstein, 2100 Garden Rd., Suite H-8, Monterey, CA 93940
- ☐ I served a copy of the Notice of Entry of Dismissal and Request for Dismissal by personally delivering copies as shown below:
  - Name of person served:
  - Address at which person served:
  - On (date):
  - At (time):
- ☐ I served a copy of the Notice of Entry of Dismissal and Request for Dismissal by electronically serving copies as shown below (complete if electronic service is used based on a court order or agreement of the parties):
  - Name of person served:
  - Electronic service address of person served:
  - On (date):
  - At (time):
  - Electronic service address from which I served the documents:
  - ☐ Proof of electronic service is attached.
- ☐ Proof of service on additional parties is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 21, 2020

Jessica Patton

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Page 1 of 1

BY FAX

CIV-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Seth Goldstein (SBN: 176882) 2100 Garden Rd., Suite H-8 Monterey, CA 93940  TELEPHONE NO.: (831) 372-9511 FAX NO. (Optional): (831) 372-9611 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Lead Counsel for Plaintiffs		FOR COURT USE ONLY  <b>FILED</b>  OCT 01 2020  EL DORADO CO. SUPERIOR COURT BY <b>W. Warden</b> (DEPUTY CLERK)
SUPERIOR COURT OF CALIFORNIA, COUNTY OF El Dorado STREET ADDRESS: 3321 Cameron Park Drive MAILING ADDRESS: SAME AS STREET CITY AND ZIP CODE: Cameron Park, CA 95682 BRANCH NAME: CIVIL		
PLAINTIFF/PETITIONER: Marques, et al. DEFENDANT/RESPONDENT: Guiding Hands School, Inc., et al.		
REQUEST FOR DISMISSAL		CASE NUMBER: PC 2020-0429 Judge Dylan Sullivan
A conformed copy will not be returned by the clerk unless a method of return is provided with the document. This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.768 and 3.770.)		

1. TO THE CLERK: Please dismiss this action as follows:
- a. (1) ☒ With prejudice (2) ☐ Without prejudice
- b. (1) ☒ Complaint (2) ☐ Petition
- (3) ☐ Cross-complaint filed by (name): on (date):
- (4) ☐ Cross-complaint filed by (name): on (date):
- (5) ☐ Entire action of all parties and all causes of action
- (6) ☒ Other (specify):\* As to Defendant, Jennifer Galas only. Each side to bear their own fees and costs.
2. (Complete in all cases except family law cases.)  
 The court ☐ did ☒ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed.)
- Date: 10/1/2020

Seth Goldstein (SBN: 176882) \_\_\_\_\_  
 (TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

\*If dismissal requested is of specified parties only or of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

3. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

\*\* If a cross-complaint -- or Response (Family Law) seeking affirmative relief -- is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date):
5. ☒ Dismissal entered on (date): 10/01/2020 as to only (name): Jennifer Galas
6. ☐ Dismissal not entered as requested for the following reasons (specify):

7. a. ☐ Attorney or party without attorney notified on (date):
- b. ☐ Attorney or party without attorney not notified. Filing party failed to provide  
☐ a copy to be conformed ☐ means to return conformed copy

Date: 10/01/2020

Clerk, by

**W. Warden**

Tania C. Ugras-Capobianco

Deputy

Form Adopted for Mandatory Use  
 Judicial Council of California  
 CIV-110 (Rev. Jan. 1, 2013)

REQUEST FOR DISMISSAL

Legal  
 Solutions  
 & Plus

Code of Civil Procedure, § 581 of seq.;  
 Gov. Code, § 85537(c); Cal. Rules of Court, rule 3.1390

Exhibit F

*Marques vs Guiding Hands School, Inc., et al.*  
El Dorado Superior Court Case No.: PC2020-0429

**PROOF OF SERVICE**

I am a citizen of the United States, employed in the County of Sacramento, State of California. My business address is 601 University Avenue, Suite 225, Sacramento, CA 95825. I am over the age of 18 and not a party to the above-entitled action.

I am readily familiar with Spinelli, Donald & Nott's practice for collection and processing of correspondence for mailing with the United States Postal Service. Pursuant to said practice, each document is placed in an envelope, the envelope is sealed, the appropriate postage is placed thereon and the sealed envelope is placed in the office mail receptacle. Each day's mail is collected and deposited in a U.S. mailbox at or before the close of each day's business. (CCP Section 1013a(3) or Fed.R.Civ.P.5(a) and 4.1.)

On 10/1/20, I served the enclosed; **REQUEST FOR DISMISSAL**. The originals of which were produced on recycled paper, to be served via:

xx **MAIL--**

Placed in the United States Mail at Sacramento, California in an envelope with postage thereon fully prepaid addressed as follows:

**SERVICE LIST**

**Lead Counsel for Plaintiffs**

Seth L. Goldstein  
2100 Garden Rd., Suite H-8  
Monterey, CA 93940  
Tel: 831.372.9511  
Fax: 831.372.9611  
Email: [slglawoffice@gmail.com](mailto:slglawoffice@gmail.com)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on 10/1/20, at Sacramento, California.

  
\_\_\_\_\_  
Jessica Patton

BY FAX

N-Court Fax Filing

**Seth L. Goldstein, S.B.N. 176882**  
2100 Garden Road, Suite H-8  
Monterey, California, 93940  
Telephone (831) 372 9511  
Fax (831) 372 9611

EL DORADO CO. SUPERIOR CT.

FILED NOV 02 2021

BY Deputy

**Lead-Counsel for Plaintiffs**

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**Co-Counsel for Plaintiffs**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF EL DORADO**

In the Matter of:

**Louie Andreas MARQUES, Gloria V.M.,  
Thomas V.M., and Jordan V.M.,**

**Plaintiffs**

**vs**

**GUIDING HANDS SCHOOL,  
Inc.(hereinafter "GHS"), , Staranne  
MEYERS, Cindy KELLER, Phylis RAMSEY,  
Jennifer CHRISTENSEN, David  
CHAMBERS, Noel Doe, Nicole DOE,  
Roland DOE, Noel COLLIER, Patricia DOE,  
David DOE, Amanda DOE, Cara BRUCE,  
Ashley ROBB, Dolores ZUMBURY, Vince  
ANDERSON, Susan Jane BATTLE and  
Noelle DOE; STATE OF CALIFORNIA,  
DEPARTMENT OF EDUCATION; PLACER  
COUNTY SELPA, Kristi GREGERSEN, Troy  
TICKLE, POINT QUEST, Inc., Bill  
TOLLESTRUP, Bill WEBBER, Nicole DOE,  
Jennifer DOE; ROCKLIN UNIFIED  
SCHOOL DISTRICT, Kristain ROYER, Beth  
DAVIDSON; HANDLE WITH CARE  
BEHAVIOR MANAGEMENT SYSTEMS,  
INC.**

**Defendants.**

**Case No.: PC20200429**

**SECOND AMENDED  
COMPLAINT FOR DAMAGES**

**JURY TRIAL DEMANDED**

**SCANNED**  
Exhibit F

NOV 12 2021

**I. PARTIES**

**Plaintiffs**

1. Plaintiff Louie MARQUES (legal name Louie Andreas MARQUES, hereinafter "MARQUES"), who lives in Sacramento was, at all relevant times herein, a minor child diagnosed as then having Oppositional Defiant Disorder and ADHD. He was a person with a disability as defined by the Unruh Act, with a mental disability as defined in Sections 12926 and 12926.1 of the Government Code.

2. At the relevant times, MARQUES had an IEP that identified predictable behaviors as disrespecting authority, tantrums, disruption of others, yelling, swearing, and kicking.

3. The BIP mandated that staff use verbal prompts, proximity changes, and modeling behaviors sought to be learned.

4. **Plaintiffs Thomas and Jordan V.M.** were children with disabilities as defined in 20 USD 1401(3), and were persons who under the Unruh Act, have a mental disability as defined in Sections 12926 and 12926.1 of the Government Code.

5. Thomas V.M. had an IEP that identified kicking, biting, throwing objects, refusal to participate in activity or follow staff directives, yelling, screaming, grunting or crying with tears as predictable behaviors.

6. His less restrictive corrective measures are identified as monitoring for safety, one step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt approach" and reapplication of original direction and follow through with original instruction.

7. Jordan V.M. had an IEP that identified non-compliance, physical aggression (kicking, hitting, pushing, biting, and spitting on staff and peers), yelling/screaming, inappropriate gestures and other behavior described as eating crayons and spitting water as predictable behaviors.

1 8. His less restrictive corrective measures are identified as monitoring for safety,  
2 one step directions, neutral tone and affect. If ineffective, prompted with a "3-prompt  
3 approach" and reapplication of original direction and follow through with original  
4 instruction.

5 9. **Plaintiff Gloria V.M.** is the adoptive mother of Thomas and Jordan V.M. and is  
6 their Guardian Ad Litem.

#### 7 **DEFENDANTS**

8 10. **Defendants Guiding Hands School Inc., and Point Quest Inc.** 4900 Windplay Dr.,  
9 El Dorado Hills, California, located on the same premises having allegedly bought out  
10 GHS are non-public schools (hereinafter NPS) incorporated under the laws of the State  
11 of California as for-profit corporations and approved by the State of California as  
12 institutions providing for children with disabilities.

13 11. At all times relevant to this Complaint, GHS was a business establishment within  
14 the meaning of the Unruh Civil Rights Act. Defendant GHS was an independent  
15 contractor with Elk Grove Unified Schools, pursuant to a written contract to perform  
16 educational services for Plaintiffs MARQUES, Thomas and Jordan V.M.

17 12. Presently, and at all times relevant to this Complaint, POINT QUEST is a  
18 business establishment within the meaning of the Unruh Civil Rights Act. Defendant  
19 POINT QUEST is an independent contractor with Rocklin Unified Schools and Placer  
20 County SELPA, pursuant to a written contract to perform educational services for  
21 Plaintiff Jordan V.M.

22 13. Presently, and at all times relevant to this **Complaint, Defendants Rocklin**  
23 **Unified Schools and Placer County SELPA** are business establishments within the  
24 meaning of the Unruh Civil Rights Act.

25 14. **Defendant California Department of Education (CDE)**, a department of the  
26 State of California, presently, was, and at all times relevant to this Complaint,  
27 responsible for inspecting and certifying Non-Public Schools such as GHS and POINT  
28 QUEST. It is a business establishment within the meaning of the Unruh Civil Rights Act.

15. **Defendant Handle with Care Behavior Management System, Inc.** Defendant, HWC was a corporation organized under the laws of the State of New York, and doing business in California, marketing a system of restraint and training California teachers to restrain special needs children in prone and other types of restraints.

16. At all times herein mentioned, Bruce Chapman (hereinafter "CHAPMAN"), was the agent and employee, owner, president and founder of HWC, who developed a patented restraint system marketed through HWC to schools in California for use on "behaviorally challenged" children in California schools, including GHS, which lead to the injuries to the student plaintiffs.

17. At all times herein mentioned, defendant, HWC was a corporation organized under the laws of the State of New York, and doing business in California, marketing a system of restraint and training California teachers to restrain special needs children in prone and other types of restraints.

#### JURISDICTION AND VENUE

18. Gloria, Thomas, and Jordan V.M. have complied with the Tort Claims filing against CDE, ROCKLIN UNIFIED SCHOOL DISTRICT and PLACER COUNTY SELPA on March 24 , 2019 for injuries and claims herein stated against said public entities. True and correct copies of said claims are attached as **Exhibit A**.

19. Plaintiffs sue all Defendants in El Dorado County because all of the tortious acts occurred at 4900 Windplay Dr., El Dorado Hills, El Dorado County, California.

20. Plaintiffs are informed and believe that each of the Local Educational Agency (LEA) and NPS Defendants is the agent, ostensible agent, alter ego, master, servant, trustor, trustee, employer, employee, representative, affiliate, related entity, partner, and/or associate, or such similar capacity, of each of the other Defendants, and at all times acting and performing, or failing to act or perform, within the course and scope of each similar aforementioned capacities, and with the authorization, consent, permission or ratification of each of the other Defendants, and is personally responsible in some manner for the acts and omissions of the other Defendants in proximately causing the violations and damages complained of herein, and have participated,

directed, and have ostensibly and/or directly approved or ratified each of the acts or omissions of each of the other Defendants, as herein described.

**GHS EMPLOYEES:**

21. At all times herein mentioned, as to Plaintiff MARQUES defendants Staranne Meyers (hereinafter "MEYERS") was the principal and member of the board of GHS, Cindy Keller (hereinafter "KELLER") was the executive director of GHS, Phyllis RAMSEY (hereinafter "RAMSEY") was an administrator for GHS and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs, activities, services, training, staff; and all of whom have direct responsibility for ensuring the safety and well-being of their students, and for ensuring compliance with state and federal laws. MEYERS, KELLER, RAMSEY and DOE defendants allowed and encouraged staff at GHS to intentionally and unlawfully assault and batter Plaintiff MARQUES.

22. At all times herein mentioned, as to Plaintiffs Thomas and Jordan V.M., defendants MEYERS was the principal and member of the board of GHS, KELLER was the executive director of GHS, RAMSEY was an administrator for GHS, Jennifer CHRISTENSEN was an administrator at GHS, NARAN was an administrator at GHS, and DOE defendants were officers, directors, and administrators of defendant GHS, all of whom have authority and control over GHS's programs, and facilities, including policies, practices, procedures, programs, activities, services, training, staff; and all of whom have direct responsibility for ensuring the safety and well-being of their students, and for ensuring compliance with state and federal laws. MEYERS, KELLER, CHRISTENSEN, RAMSEY, NARAN, Noel COLLIER (Special Education Teacher), and unknown DOE defendants allowed and encouraged staff at GHS to intentionally and unlawfully assault Plaintiffs Thomas and Jordan V.M.

23. At all times herein mentioned, "Roland" was a driver for GHS and assisted on campus during the time Thomas V.M. was at GHS. "Roland" was also rehired as staff at Defendant Point Quest.

24. At all times herein mentioned, there were two secretary/support staff working the "front desk" at GHS. One was known to Thomas V.M. only as "Nicole" and the other's name is unknown at this time. On information and belief, "Nicole" was rehired at Defendant Point Quest.

25. At all times herein mentioned, as to Plaintiff MARQUES defendants Delores ZOMBURY (hereinafter "ZOMBURY"), Vince ANDERSON (hereinafter "ANDERSON"), Ashley ROBB (hereinafter "ROBB"), Cary BRUCE (hereinafter "BRUCE"), Cory QUINCEY (hereinafter "CORY"), Bryna QUINCEY (Hereinafter "BRYNA"), David Chambers (hereinafter "CHAMBERS") Kera BRUCE (Hereinafter "BRUCE" , Susan Jane BATTLE, and DOE defendants were employed as teachers, and aides at GHS, who intentionally and unlawfully assaulted MARQUES and unlawfully inflicted corporal punishment upon him. They had authority and control of the classroom, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of GHS.

26. The names and capacities, whether individual, corporate, otherwise, sued herein as DOES 1-100, inclusive, are presently unknown, and Plaintiff will amend the Complaint to insert them when ascertained.

#### **POINT QUEST EMPLOYEES**

27. Bill Tollestrup, Interim Director of El Dorado Hills, Bill Weber, Director of El Dorado Hills, Nicole DOE, Jennifer DOE, Roland Doe, and DOE defendants were employed as administrators, teachers, and aides at POINT QUEST, who intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and control of the classroom, including policies, practices, procedures, facilities, and activities within the classroom.

28. At all times relevant to this Complaint, Defendant Noel COLLIER, Patricia DOE, David DOE, Amanda DOE, and Noelle DOE were employees of POINT QUEST and were either directly involved in restraining Plaintiff Jordan V.M. or were immediately

present on the premises during the restraints and failed to intercede to protect the plaintiffs.

They are sued in their individual capacity and in their capacity as employees of POINT QUEST.

#### **ROCKLIN UNIFIED SCHOOL EMPLOYEES**

29. Kristain ROYER, Program Specialist, Beth DAVIDSON, Assistant Director of Special Education, and DOE defendants were employed as administrators at RUSD, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

#### **PLACER COUNTY SELPA EMPLOYEES**

30. Kristi Gregersen, Program Specialist, Troy TICKLE, Director, Placer County SELPA, and DOE defendants were employed as administrators at Placer County SELPA, who knew or should have known that POINT QUEST staff had intentionally and unlawfully assaulted Jordan V.M. and unlawfully inflicted corporal punishment upon him. They had authority and oversight control of the program at POINT QUEST school, including policies, practices, procedures, facilities, and activities within the classroom. They are sued in their individual capacity and in their capacity as employees of RUSD.

31. Plaintiffs MARQUES, Thomas, and Jordan V.M. were placed at GHS and POINT QUEST by their respective school districts after representations were made to the minors' parents about both schools special skills, facilities and safe environment appropriate for their children. The placement was pursuant to each student's Individual Education Plan (IEP), as a result of their diagnosis as children with disabilities, because the school districts themselves determined they were unable to provide a Free Appropriate Public Education.

32. Defendants GHS, POINT QUEST, ROCKLIN UNIFIED SCHOOLS AND PLACER COUNTY SELPA have failed to adequately supervise their employees that resulted in

1 the foreseeable physical harm to Plaintiffs. Defendants had a statutory duty to ensure  
2 that staff who came into contact with Plaintiffs would provide an environment free of  
3 abuse and neglect.

4 33. California law, including Cal Const, Art. I § 28, has long imposed on school  
5 authorities a duty to supervise at all times the conduct of children on school grounds  
6 and to enforce those rules and regulations necessary for their protection. Defendants  
7 also had a duty to use reasonable measures to protect students from foreseeable injury  
8 at the hands of third parties acting intentionally or negligently.

9 34. Defendants have violated their statutory duties to Plaintiff, including their  
10 supervisory duties created under California Education Code sections 44807 and 44808.

11 35. California Penal Code section 11166 which required them to report any knowledge  
12 of a child whom the mandated reporter knows or reasonably suspects has been the  
13 victim of child abuse or neglect to the agency immediately or as soon as is practically  
14 possible by telephone and the mandated reporter shall prepare and send, fax, or  
15 electronically transmit a written follow up report thereof within 36 hours of receiving the  
16 information concerning the incident.

17 36. Defendants have violated their statutory duties to Plaintiffs Thomas and Jordan  
18 V.M., including multiple violations of California Education Code sections 56521.1 and  
19 56521.2 (and its predecessor legislation) that, in pertinent parts, suggest alternative  
20 interventions and/or prohibits the use of any interventions that:

21 1) cause physical pain; 2) simultaneously immobilize all four extremities, 3) apply an  
22 amount of force that exceeds that which is reasonable and necessary under the  
23 circumstances, or 4) subjects the individual to verbal abuse, ridicule, or humiliation, or  
24 that can be expected to cause excessive emotional trauma.

25 37. Defendants have violated their statutory duty under California Penal Code  
26 section 11165.4 which prohibits "unlawful corporal punishment or injury" against a child,  
27 defined as "any cruel or inhuman corporal punishment or injury resulting in a traumatic  
28 condition."

1 38. Defendants GHS and POINT QUEST violated its statutory duty under California  
2 Education Code section 260 by failing to enact an adequate formal or informal policy  
3 to ensure that GHS and POINT QUEST provided a learning environment free from  
4 discrimination based on the characteristics provided in California Education Code  
5 section 220, specifically disability.

6 39. GHS was closed in 2018 after the State of California revoked their license to  
7 operate following the death of student Max Benson who was subjected to a restraint  
8 that killed him.

9 40. After GHS was closed it was, allegedly, sold to POINT QUEST, and Jordan V.M.  
10 then attended Defendant POINT QUEST.

11 41. When POINT QUEST took over GHS facilities and educational duties, Gloria  
12 V.M. was assured by the Rocklin Unified School staff, Placer County SELPA, and  
13 POINT QUEST staff, expressly, by inference, or omission, that the previous policies  
14 and practices employed by GHS were, not only no longer employed, she was assured  
15 that the GHS employees were gone and would not be rehired at POINT QUEST.

16 42. For more than a decade, the California Department of Education ("CDE"), school  
17 districts, county offices of education and Special Education Plan Areas ("SELPAs")  
18 -have known that using restraints on students, particularly in response to predictable  
19 disability-related behavior, carries serious risks for their physical and emotional health.

20 43. There have been many reports of students with behavioral challenges dying or  
21 sustaining serious injuries due to abusive use of restraint systems, such as the Handle  
22 With Care system developed by Defendant Bruce Chapman. It is also well-known that  
23 restraints are disproportionately used against children with disabilities.

24 44. Despite this knowledge, nonpublic schools like Defendants GHS and POINT  
25 QUEST and their respective staffs continued to use such restraints frequently, in  
26 response to predictable behaviors that did not constitute an immediate or serious threat  
27 to the student or others, for extended periods of time, on students whose disabilities  
28 elevated the risk of using restraints, and with excessive force.

1       45. They could do so because the CDE, and the LEA Defendants abdicated their  
2       responsibilities to monitor and supervise GHS and POINT QUEST and ensure their  
3       compliance with state and federal laws prohibiting discrimination and the improper use  
4       of restraints.

5       46. The CDE continued to certify GHS continues to currently certify POINT  
6       QUEST, and the LEA Defendants continued to contract with and place their students  
7       with disabilities in the respective schools.

8       47. Plaintiff students with developmental and other disabilities whose local  
9       educational agencies placed them at GHS and POINT QUEST pursuant to their  
10      Individualized Education Plans ("IEP")

11     48. Each Plaintiff Student attended GHS sometime between 2006 and 2018, where  
12     its administrators and staff subjected them to excessive and harmful restraints and  
13     other aggressive physical interventions in response to known behaviors associated with  
14     their disabilities, resulting in physical and emotional abuse and injury, and in the case  
15     of one other student, death.

16     49. GHS was, and POINT QUEST is, a nonpublic school-as that term is defined in  
17     Cal. Ed. Code § 56034-which contracted with the LEA Defendants to provide special  
18     education services to public school students with disabilities in exchange for state and  
19     federal educational funding.

20     50. As required by law, GHS and POINT QUEST entered into Master Contracts with  
21     the LEA's, as well as an Individual Services Agreement for each student placed there.

22     51. Each of the Plaintiff Students' IEP's included a Behavioral Intervention Plan  
23     ("BIP") which described the student's known disability-related behaviors and the  
24     intervention strategies and positive behavioral supports educators should use to  
25     prevent or respond to those behaviors.

26     52. Despite legal requirements (discussed below) and Defendants' knowledge of the  
27     dangers associated with restraints to students' physical and emotional health, GHS and  
28     POINT QUEST administrators and employees engaged in a policy and practice of using  
29     restraints as a substitute for the positive interventions detailed in the students' BIPs in

1 response to predictable behavior that did not pose a clear and present danger of  
2 serious physical harm to the student or others. GHS and POINT QUEST used  
3 restraints against its students frequently, for periods of time that were longer than  
4 necessary, and with excessive force.

5 53. These restraints-including prone restraints- in which the child is placed face  
6 down on the floor with one or more adults applying force from above to keep the child's  
7 body immobile-frequently lasted over an hour.

8 54. Some students were restrained frequently, sometimes more than one time each  
9 day.

10 55. The restraints and other aggressive physical interventions inflicted by GHS and  
11 POINT QUEST caused the Plaintiff Students physical and emotional injuries.

12 56. GHS and POINT QUEST administrators were not only aware of the abuse, but  
13 encouraged it and were responsible for the school's policy and practice of using  
14 frequent, excessive, harmful and lengthy restraints as a substitute for positive  
15 behavioral interventions in response to students' predictable, disability-related  
16 behaviors.

17 57. GHS and POINT QUEST did not provide adequate training in positive  
18 behavioral interventions, instead relying on Defendant Bruce Chapman's patented  
19 restraint system, Handle With Care Behavioral Management Systems, Inc. which was  
20 associated with numerous abuses by educational professionals on students with  
21 behavioral challenges.

22 58. GHS and POINT QUEST training in the HWC method ignored requirements of  
23 state and federal law and did not provide proper warnings regarding the risks  
24 associated with restraining students or safeguards for monitoring and responding to  
25 signs of distress.

26 59. Moreover, GHS and POINT QUEST took significant measures to conceal its  
27 illegal use of restraints and child abuse from parents and the LEAs with which it  
28 contracted by failing to provide required reports to the parents and the State of  
California.

60. Prior to the children's placement, GHS misrepresented orally, in enrollment documents, and in the children's IEP that the school focused on proactive, positive behavioral interventions and that corrective behavior would be "calm", "brief", and "respectful."

61. The HWC Intervention Statement that parents had to sign as part of the enrollment packet emphasized positive intervention and "the 3-step prompt" which "entails a verbal request, followed by staff modeling and finally hand over hand with children who may have difficulty following directions . . ." It represented that a restraint would be used only if the child appeared to be "a physical danger to themselves or others around them".

62. GHS used the HWC terminology in referring to the most dangerous restraint-a prone restraint-as a "neutral" restraint. *Id.* These misrepresentations were repeated in the students' BIPs developed as part of the IEP process and a part of the agreement between the parent/student, the LEA, and GHS.

63. When a student was restrained, GHS frequently failed to complete a Behavioral Emergency Report ("BER"), place the BER in the student's file, send it to the LEA, or notify the student's parent, as required by law and GHS's Master Contracts with the LEAs. Nor did GHS administrators or staff report the regular, systemic child abuse they witnessed and participated in at the school, despite the requirement to do so as mandated reporters.

64. GHS's use of restraints was so excessive in frequency, duration, force and purpose that any educator or monitoring official who personally observed the program for more than an hour would realize that the school and its staff had exceeded the legal bounds for emergency interventions and were physically abusing their students.

65. However, the CDE and the LEAs ignored their legal duties to supervise and monitor the program and continued to place vulnerable students in its care. GHS would still be abusing its students were it not for the death of a 13-year-old student who died after he was held in a prone restraint for almost two hours on November 28, 2018.

1        66. Plaintiff Thomas V.M. was a disabled student, placed at GHS on August 6, 2018,  
2        because of his diagnosis of his disability. Plaintiff Jordan V.M. was a disabled student,  
3        placed at GHS on February 22, 2018, because of his diagnosis of disability. All  
4        plaintiffs, due to their disabilities, engaged in repetitive conduct that disrupted their  
5        educational experience and abilities.

6        67. Because of the disruption that affected other students, they were frequently  
7        placed in such restraints, which included but was not limited to, the imposition of  
8        restraints that constituted physical child abuse, battery, and assault.

9        68. Referring to these restraints as though they were normal and accepted ways of  
10       disciplining plaintiffs, Defendant administrators, teachers and assisting staff, as  
11       individually identified below, preyed on plaintiffs because of their disability related  
12       conduct.

13       69. These defendants assaulted and battered plaintiffs repeatedly rather than  
14       following the BIPs.

15       70. The LEA administrators, by and through their agency with GHS and POINT  
16       QUEST administrators tasked unqualified and inadequately trained staff with  
17       supervising plaintiff students, who often failed to document and report incidents of  
18       abuse, and failed to take reasonable steps to prevent further abuse.

19       71. Plaintiffs, like other students who were also subjected to such conduct, would  
20       attend class and when a student acted consistently with their predictable behaviors  
21       stated in their individual BIP and IEP (and the reason(s) why they were placed at GHS  
22       and POINT QUEST) or failed to follow the directions of the GHS and POINT QUEST  
23       staff as individually described below, they would be subjected to painful restraints in full  
24       and open view of fellow students.

25       72. Each plaintiff had specific conduct that was identified in their BIP, for which,  
26       each plaintiff had a set of less restrictive measures to be taken before a "hands on"  
27       physical intervention such as painful restraints would be exercised.

28       73. Plaintiffs witnessed other students treated in the same way in their respective  
      classes. The observation of such torturous conduct to other students and themselves

caused Plaintiffs who were in their immediate presence to experience fear and anxiety such that they were terrorized in anticipation that they too might be hurt in the same way.

74. As to MARQUES, the documented abuse occurred from as early as December 18, 2006, when Plaintiff MARQUES began attending GHS through March 19, 2008, when he was removed. For Thomas and Jordan V.M., it began when they first began to attend GHS on February 22, 2018, and lasted until they were removed on or about the end of December 2018 and officially, in January, 2019.

75. Shortly after beginning to attend Defendant POINT QUEST, Thomas was assaulted, battered, and restrained in the same fashion as described below. He was removed on or about October 1, 2019 and officially October 22, 2019.

76. No efforts were shown to protect plaintiffs from the continued abuse by the schools' administrations and, in fact, when complaints were made by plaintiff's respective parents, the administration of both schools backed their employees alleging the children were at fault and their employee's actions were necessary.

77. Defendants GHS and POINT QUEST, and their individual staff members as particularly described below, carried out these series of abusive acts upon Plaintiffs and other students, terrorizing them throughout their time at the school generating Plaintiffs' deeply held fears of reoccurrence.

78. The harmful effects of the abuse suffered by all Plaintiffs at the hands of the staff directly abusing him have been compounded by all the Defendants' (as individually named below) willful failure to adequately report, document, respond to, and prevent the abuse.

79. Even after each of the plaintiffs' parents approached the defendants as described below, requesting information about the abuse that would explain the children's injuries, conduct at home, and their account of events, defendant administrators at the respective schools failed to provide any meaningful information regarding what transpired in their children's classroom, covering up their conduct by providing false accounts of the events.

80. Plaintiffs Thomas and Jordan V.M. are in another school in Washington State.

81. The alleged acts and Plaintiffs' damages are such that proceeding through due process before the Office of Administrative Hearings would be both futile and irrelevant.

82. Plaintiffs' injuries cannot be redressed under the IDEA's due process procedures because they were assaulted and are not seeking the types of remedies available under the IDEA, rather seeking remedies for physical and emotional damages resulting from being assaulted.

83. In addition, Plaintiff MARQUES is an adult and outside of the educational system.

84. The same is true for Plaintiffs Thomas and Jordan V.M. who are both outside the State of California in a private religious school.

85. From records to be obtained by Plaintiffs, there were restraint incidents involving Plaintiffs and they expressly reserve their right to amend this Complaint to include additional facts and/or claims as discovery in this case proceeds.

#### **OPERATIVE FACTS**

86. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

#### **AS TO PLAINTIFF MARQUES**

87. Over a one-and-one-half year period as specifically set forth below in each cause of action, Defendants ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS and DOE defendants repeatedly unlawfully assaulted Plaintiff MARQUES by grabbing him, pushing or otherwise forcing him to the floor and, in painful positions, pinning all four appendages for various periods of time, immobilizing him, including as punitive measures. All were either for an unnecessarily prolonged period of time or had failed to utilize the less restrictive measures set forth in his BIP for predictable behaviors related to his disability.

88. MARQUES was a student at GHS from 2006 to 2008. He was referred to GHS by Elk Grove School District employees.

89. MARQUES had both an Individual Education Plan (EIP) and a Behavioral Intervention Plan (BIP) at all relevant times herein.

90. Defendants GHS, MEYERS, KELLER, RAMSEY, ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHRISTENSEN, CHAMBERS and DOE defendants failed to file Behavioral Emergency Reports or document injuries as required by law, so all of the dates of assaults all are unknown to MARQUES at the present time.

91. Those that are identified occurred on Sept. 12, 2006, Dec. 18, 2006, April 16, 2007, April 23, 2007, September 4, 2007, September 5, 2007, October 31, 2007, March 19, 2008, set forth in greater detail below.

92. On September 12, 2006, and 9:50 AM, guiding hands employees Kera Bruce and Ashley ROBB, put MARQUES in a restraint for 12 minutes because he failed to stand appropriately and when escorted from the line he was standing in, kicked a student and Bruce. He was restrained "per CPI". Both Dolores ZOMBURY and David Chapman participated in the restraint.

93. On December 18, 2006, at 1:45 PM Ashley ROBB and Kera Bruce instituted an eight minute restraint after MARQUES had been found to have a toy belonging to another student. What he was told to return the toy he began to kick his desk and a filing cabinet. He was placed in a basket restraint.

94. On April 16, 2007 at 9 AM, MARQUES was put in a restraint for five minutes by ZOMBURY, after he refused to sit down and began throwing pencils and calling children names.

95. On April 17, 2007, at 10 AM, MARQUES was put in a restraint by Dolores ZOMBURY for five minutes after he was told to put a pointer down and had slapped it on the desk of another student. When he was directed to sit down he ran around the room and was restrained.

96. On April 17, 2007, at 10:50 AM, MARQUES was put in a restraint for 30 minutes by Dolores ZOMBURY and subsequently by a teacher's aide known only as "Laure", when MARQUES refused to give back a protein bar and be escorted to his seat. He kicked the teacher and was taken to the "corner".

1 97. On April 23, 2007, at 8:35 AM, he was placed in a three minute restraint by  
2 ZOMBURY after another student had pushed him, rubbing "snot" on his jacket and in  
3 response he pushed that student down.

4 98. On April 23, 2007 11:30 AM, MARQUES was put in a restraint when he began  
5 swearing and started to run towards another student after he disregarded a request by  
6 the instructor to put his head down on his desk. The staff involved were ZOMBURY and  
7 Chambers.

8 99. On September 5, 2007, 2 PM, MARQUES was put in a restraint by instructor  
9 Vince Anderson, because he failed to follow directions and began yelling in the  
10 presence of his mother.

11 100. On March 19, 2008, CORY, BRYNA, CHAMBERS, and DOE defendants  
12 restrained MARQUES, forcing him to the floor and containing him in a "basket hold."

13 101. In this restraint, MARQUES was pushed to the ground and placed in a position  
14 for an extended period of time, while his arms were pulled behind his back. GHS staff  
15 sat at his back while he was in this position, increasing his pain and making it difficult  
16 for him to move.

17 102. This incident arose when another child assaulted MARQUES with a rock and  
18 MARQUES defended himself.

19 103. When assaulted by GHS staff on March 19, 2008, MARQUES suffered bruises  
20 to his chest, burns to his elbows, and severe soft tissue damage to his back and  
21 buttocks as a result of these restraints.

22 104. MARQUES subsequently suffered panic attacks, night-terrors, startles,  
23 depression and self-loathing as a result of these restraints.

24 105. MARQUES was abused on additional occasions while attending GHS.

25 106. MARQUES will seek leave to allege these dates according to proof when further  
26 information becomes available through the discovery process.

27 107. At all relevant times, MARQUES.'s behaviors were known and predictable and  
28 had previously been addressed in his Behavioral Intervention Plan.

108. The restraints imposed upon MARQUES, as herein alleged, constituted child abuse (Penal Code Section 273a), corporal punishment (Penal Code Section 273d) and battery (Penal Code Sec. 242), and torture (Penal Code Section 206) prohibited by California law.

**AS TO THOMAS V.M.**

109. Thomas V.M. was restrained by GHS and POINT QUEST staff on many occasions the precise details are neither known to he nor his mother at this time, other than that described as follows.

110. Thomas V.M. was restrained in some fashion on September 5, 2018, for forty (40) minutes by or in the presence of Defendant Noel COLLIER, who left a phone message for Gloria V.M. on that date informing her of the incident where he refused to participate in an art exercise and was restrained as a result of staff intervention.

111. Thomas V.M. was restrained in some fashion on September 19, 2018, by or in the presence of Defendant Noel COLLIER.

112. Thomas V.M. was restrained in some fashion on October 3, 2018, by or in the presence of Defendant Noel COLLIER, when he refused to cooperate with staff.

113. Thomas V.M. was restrained in some fashion on October 23, 2018, by or in the presence of Defendant Noel COLLIER and David Chambers, when he would not cooperate with staff and bit one on the leg.

114. Thomas V.M. was restrained in some fashion on October 18, 2018, by or in the presence of Defendant Noel COLLIER when he would not cooperate with staff.

115. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 3, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would not give up a ball nor participate in Yoga.

116. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 5, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would participate in his math lesson and threw a pencil and his book.

117. Thomas V.M. was restrained in a HWC Neutral (prone) restraint on November 19, 2018, by or in the presence of Defendant Noelle Doe, when he would not cooperate with staff because he would not give up a ball nor participate in school work, threw his paper at Noelle DOW and tried to leave the classroom.

118. Thomas V.M. was restrained by a staff member named "Jennifer" when attending POINT QUEST and, as a result, his mother immediately withdrew him from the school.

119. Thomas V.M. knows that "Jennifer" was a previous staff member at GHS.

120. Thomas V.M. was repeatedly assaulted by "Roland" who was a driver for GHS and who had shoved Thomas, face first, into a wall on various occasions, one of which chipped one of Thomas's teeth.

121. While attending GHS, Thomas was repeatedly refused food and prevented from eating, despite his mother's frequent pleas that he be provided the lunch he was sent to school with or that was to have been provided by the GHS staff. Thomas, at all relevant times, was suffering from a thyroid disorder and provided medication that frequently made him hungry. Various unidentified staff, including Nicole Doe, had taken Thomas's lunch from him before he was finished eating, thereby increasing his discomfort and hunger throughout the day.

**AS TO JORDAN V.M.**

122. Jordan V.M. was restrained by GHS staff on many occasions the precise details are neither known to he nor his mother at this time, other than that described as follows:

123. Jordan V.M. was restrained in a restraint of some fashion on February 26, 2018, by or in the presence of Defendant Amanda Doe, when he would not cooperate on a bus trip home.

124. Jordan V.M. was restrained in a restraint of some fashion on October 10, 2018, by or in the presence of Defendant Noel COLLIER, when he was asked to do class work and threw a crayon.

125. Jordan V.M. was restrained in a restraint of some fashion on October 9, 2018, by an unknown staff member, possibly "Dorian", for an unknown reason.

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**FIRST CAUSE OF ACTION**

**Violation of California Civil Code §§ 51, et seq.**

AS TO PLAINTIFF MARQUES Against GHS;  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
and DOES 1-100.

126. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth herein.

127. Plaintiff MARQUES was a person with disabilities as defined by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. He had been diagnosed with Attention Deficit Hyperactivity Disorder and Oppositional Defiant Disorder and was limited in the major life activities of learning.

128. Plaintiffs THOMAS and JORDAN V.M. are persons with disabilities as defined by Cal. Civ. Code § 51(e)(1) and Cal. Gov't Code §§ 12926 and 12926.1. They had been diagnosed as Autistic.

129. Defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT are businesses establishment covered by California Civil Code §51.

130. GHS, POINT QUEST and their staffs subjected Plaintiffs to physical and emotional abuse in response to behavior that was a manifestation of Plaintiffs' disabilities as described above.

131. GHS and POINT QUEST discriminated against Plaintiffs in that they did not provide them with full and equal enjoyment of GHS' and POINT QUEST's goods, services, facilities, privileges, advantages, or accommodations.

132. Plaintiffs were not provided with the services, facilities, privileges, advantages and accommodations of GHS and POINT QUEST on a basis equal to that afforded to individuals without disabilities.

133. The discipline methods, behavior standards and criteria employed by GHS and POINT QUEST caused Plaintiff to be subjected to physical and emotional abuse as a result of his disabilities.

134. GHS and POINT QUEST failed to make reasonable modifications to their educational and behavioral intervention methods and staff training that were necessary to afford students with disabilities such as Plaintiff equal access to GHS's and POINT QUEST's goods, services, facilities, privileges, advantages and accommodations.

135. The actions and failures to act of GHS and POINT QUEST violated Title III of the Americans with Disabilities Act of 1990, 42 U.S.C. § 121. Defendant has committed additional violations of the Unruh Civil Rights Act in that the conduct alleged herein constitutes a violation of various provisions of the Americans with Disabilities Act, 42 U.S.C. sections 12181, et seq. As such, Defendant's actions also constituted a violation of the Unruh Act under Cal. Civ. Code § 51(f).

136. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

137. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense pursuant to California Civil Code section 52.

138. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

**SECOND CAUSE OF ACTION**  
**Violation of Cal. Civ. 51.7 Ralph Civil Rights Act**  
**AS TO PLAINTIFF MARQUES Against GHS and DOES 1-100;**

AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

139. Plaintiffs incorporate, by reference herein, all preceding paragraphs as though fully set forth herein.

140. Defendants in doing the acts described above violated Plaintiffs' rights under the Ralph Civil Rights Act.

141. Plaintiffs have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of any characteristic listed or defined in subdivision (b) or (e) of Section 51, because another person perceives them to have one or more of those characteristics.

142. In committing the acts described above, all defendants have violated Plaintiffs' rights by subjecting them to violence and intimidation.

143. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

144. Defendants are liable to Plaintiffs for each and every offense for actual damages and multiple damages of up to three times the actual damages incurred, but in no case less than \$4000 per offense pursuant to California Civil Code section 52.

145. Plaintiffs are also entitled to reasonable attorneys' fees and costs.

### THIRD CAUSE OF ACTION

#### For Interference with Exercise of Civil Rights in Violation of California Civil Code Section 52.1

AS TO PLAINTIFF MARQUES Against GHS,  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

146. Plaintiff incorporate, by reference herein, all preceding paragraphs , as though fully set forth herein.

147. California Civil Code 52.1 provides that it is unlawful to interfere with the exercise

or enjoyment of any rights under the Constitution and the laws of this state and the United States by attempted use of threats, intimidation or coercion.

148. The California Constitution establishes the right to a free public education to all students on an equal basis. *Butt v. California*, 4 Cal. 4th 668, 685 (1992).

149. California Civil Code section 43 guarantees the right of every person to be free from bodily restraint or harm and personal insult.

150. In doing the things herein alleged, Defendants intentionally interfered with and attempted to interfere with Plaintiff's civil rights by threats, intimidation, or coercion.

151. Defendants acted violently against Plaintiff, thereby preventing him from exercising his rights.

152. Defendants' conduct caused Plaintiff to suffer physical and emotional harm.

153. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

154. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged, was a substantial factor in causing said harm to Plaintiff.

155. Defendants' GHS and POINT QUEST's employees, violated Plaintiffs' rights by using a physical restraint technique that impaired Plaintiffs' ability to breathe; placing Plaintiffs in a face down position with the pupil's hands held or restrained behind the pupil's back; and by using a behavioral restraint for longer than was necessary to contain the behavior that allegedly posed a clear and present danger of serious physical harm to the pupil or others.

156. Defendant employees of GHS and POINT QUEST acted with conscious disregard of Plaintiffs' rights and the fact that their conduct was certain to cause injury and/or humiliation to Plaintiffs. Plaintiffs are informed and believe that Defendant employees of GHS and POINT QUEST intended to cause fear, physical injury and/or pain and suffering to Plaintiff. Plaintiff is therefore entitled to recover punitive and exemplary damages.

157. Plaintiff is also entitled to actual and/or statutory damages, as well as reasonable attorneys' fees and costs as set by the Court.

**FOURTH CAUSE OF ACTION**  
**Violation of California Education Code §§ 200, 201, 220, and 260 et seq.**

AS TO PLAINTIFF MARQUES Against GHS,  
AS TO PLAINTIFFS THOMAS AND JORDAN V.M. Against GHS, POINTQUEST,  
CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT,  
and DOES 1-100

158. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

159. Plaintiffs are individuals with disabilities.

160. At all times relevant to this complaint, Defendant GHS was an educational institution providing education to students from kindergarten through twelfth grade and receiving financial assistance from the State of California.

161. Defendants discriminated against Plaintiff on the basis of their disability by subjecting them to physical and emotional abuse in response to disability-related behavior.

162. The actions of the Defendants CDE, PLACER COUNTY SELPA, ROCKLIN UNIFIED SCHOOLS were the product of joint action between public entities and individual employees.

163. The conduct of defendants GHS, POINTQUEST, CDE, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT, their employees and DOE defendants, as herein alleged, was a substantial factor in causing said harm to Plaintiff.

164. As a proximate cause of the actions of Defendants herein, Plaintiff is entitled to damages in an amount according to proof and reasonable attorneys' fees and costs.

**FIFTH CAUSE OF ACTION**  
**Assault and Battery Pursuant to California Penal Code Section 206**  
**AS TO PLAINTIFFS**  
**MARQUES**, against GHS, KELLER, MYERS, RAMSEY, CHRISTENSEN,  
CHAMBERS, ROBB, BRUCE, ZOMBURY, ANDERSON, CORY QUINCY, BYRNA  
QUINCY, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Thomas V.M. against defendants GHS, CHRISTENSEN, RAMSEY, MYERS,  
KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe,  
Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;  
EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT;  
DOES 1-100

165. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

166. CHAMBERS, CHRISTENSEN, MEYERS, KELLER, RAMSEY, "JENNIFER" DOE, and DOE defendants , with the intent to cause cruel or extreme pain and suffering for the purpose of persuasion, or for a sadistic purpose, inflicted significant injury upon Plaintiffs by repeatedly assaulting Plaintiffs throwing them to the ground and causing bruises, contusions and lacerations.

167. As a result, Plaintiffs suffered physical and psychological injuries.

168. Defendants acted with the intent to cause injury and that action and intention was despicable, done with a willful and knowing disregard of the rights of Plaintiffs.

169. Defendants acted knowingly and aware of the probable consequences of their conduct and deliberately failed to avoid these consequences, subjecting Plaintiffs to cruel and unjust hardship.

170. Defendants' conduct, assaulting a disabled child is so vile, base, and contemptible that it would be looked down upon and despised by reasonable people.

171. Defendants' conduct in intentionally assaulting and restraining Plaintiffs knowing of their disabilities was malicious and outrageous such that exemplary damages should be awarded.

172. WHEREFORE, Plaintiffs pray for judgment for damages according to proof.

**SIXTH CAUSE OF ACTION  
ASSAULT AND BATTERY**

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe,  
Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;  
EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT DOES 1-100

173. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

174. In doing the things herein alleged, said defendants intended to cause, and did cause Plaintiffs Thomas and Jordan V.M. to suffer harmful or offensive contact.

175. As a result of said conduct of said defendants, Plaintiffs Thomas and Jordan V.M., reasonably believed that they were about to be touched in a harmful or offensive manner, and in a manner that offended a reasonable sense of personal dignity.

176. In doing the things herein alleged, said defendants threatened to touch Thomas and Jordan V.M. in a harmful or in an offensive manner.

177. At all times herein mentioned, it reasonably appeared to MARQUEZ, Thomas and Jordan V.M. that said defendants were about to carry out the threat.

178. At all times herein mentioned, Thomas and Jordan V.M. did not consent to the conduct of said defendants.

179. Thomas and Jordan V.M. suffered harm, as herein alleged.

180. The aforementioned conduct of said defendants was a substantial factor in causing Thomas and Jordan V.M. harm. The conduct of said defendants, caused Thomas and Jordan V.M. to be apprehensive that said defendants would subject Thomas and Jordan V.M. to further intentional invasions of their right to be free from

harmful and offensive contact, and demonstrated that at all times material herein, said defendants had a present ability to subject Thomas and Jordan V.M. to an intentional offensive and harmful touching.

181. Said defendants' unlawful conduct, as herein alleged, was a substantial factor in causing Thomas and Jordan V.M. to suffer physical and emotional injury, and future physical and emotional injury, all in an amount within the jurisdiction of the court according to proof at trial.

182. At all relevant times, said defendants acted with conscious disregard of MARQUEZ, Thomas and Jordan V.M. rights, safety, physical well-being and feelings. Said defendants also acted with the knowledge of, or with reckless disregard for, the fact that their conduct was certain to cause injury and/or humiliation to Thomas and Jordan V.M. Said defendants intended to cause fear, physical injury and/or pain and suffering to Thomas and Jordan V.M.

183. By virtue of the foregoing, the estate of Thomas and Jordan V.M. are entitled to recover punitive and exemplary damages from individual and non-public entity defendants according to proof at trial. Estate of Thomas and Jordan V.M. make no claim for punitive damages against the named defendants.

#### SEVENTH CAUSE OF ACTION

##### INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, CHRISTENSEN, NARAN, POINT QUEST, RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN  
SCHOOL DISTRICT;  
DOES 1-100

1  
2  
3 184. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
4 fully set forth herein.

5 185. In doing the things herein alleged, the conduct of said defendants was  
6 outrageous in that it was so extreme as to exceed all bounds of that usually tolerated  
7 in a civilized community.

8 186. Said defendants inflicted actual injury and/or acted with reckless disregard of the  
9 probability that Plaintiffs Gloria, Thomas and Jordan V.M. would suffer emotional  
10 distress, knowing that the children who were restrained, including Gloria, Thomas and  
11 Jordan V.M., were present when the conduct occurred.

12 187. The conduct of said defendants, as herein alleged, was a substantial factor in  
13 causing Gloria, Thomas and Jordan V.M., to suffer severe emotional distress, severe  
14 mental anguish, humiliation, pain, and physical distress.

15 188. Said defendants knew or should have known that Thomas and Jordan V.M. did  
16 not need to be, for their safety or the safety of others, and did not want to be, physically  
17 forced into prolonged prone restraints, standing, seated, settled and/or small child  
18 restraints.

19 189. Said defendants' knowing disregard for the safety of Thomas and Jordan V.M.  
20 and said defendants' deliberate failure to monitor and control their behavior towards  
21 exceptional needs students, such as Thomas and Jordan V.M. caused Thomas and  
22 Jordan V.M. to be repeatedly battered and assaulted by teachers and aides at GHS  
23 and POINT QUEST.

24 190. Said defendants' conduct was extreme and outrageous.

25 191. Said defendants acted willfully and wantonly, and with reckless disregard for  
26 plaintiffs' rights and feelings, and with deliberate indifference to the certainty that Gloria,  
27 Thomas and Jordan V.M. would suffer emotional distress.  
28

192. The outrageous conduct of said defendants described herein was willful and malicious and was performed with conscious disregard for the rights, safety, physical well-being and feelings of the Gloria, Thomas and Jordan V.M. As a result, Gloria, Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual and non-public entity defendants in a sum according to proof.

**EIGHTH CAUSE OF ACTION**

**FALSE IMPRISONMENT CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

**ASSERTED by**

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; ROYER, DAVIDSON

193. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

194. Said defendants, in concert with one another, did intentionally and unlawfully, and conspire to, exercise force, threat, implied threat of force, or duress, to restraint and confine Thomas and Jordan V.M. , and deprive them of their freedom of movement, when said defendants committed the acts described herein.

195. Thomas and Jordan V.M. did not knowingly or voluntarily consent to said restraints.

196. As a proximate cause of the restraints, Thomas and Jordan V.M. suffered actual physical and emotional harm, as herein alleged.

197. That the conduct of said defendants, as herein alleged, was a substantial factor in causing harm to Thomas and Jordan V.M.

198. The outrageous conduct of the said defendants was willful and wanton, and was

performed with conscious disregard for the rights, safety, physical well-being and feelings of Thomas and Jordan V.M.

199. As a result, Thomas and Jordan V.M. are entitled to punitive or exemplary damages from individual and non-public entity defendants in a sum according to proof at time of trial.

**NINTH CAUSE OF ACTION  
NEGLIGENCE**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST, RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD, RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL DISTRICT;  
DOES 1-100

200. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

201. Said defendants breached their duty towards Thomas and Jordan V.M. by:

a. Failure to develop and maintain effective procedures governing emergency interventions;

b. Failure to obtain proper training for use of behavioral emergency interventions

c. Failure to provide oversight on the use of restraints

d. Failure to develop protocols for use of restraints

f. Failure to prohibit restraints on physically disabled children

g. Failure to prohibit prolonged restraints (anything over 15 minutes)

h. Failure to require that Thomas and Jordan V.M. be released from a restraint at the earliest possible moment.

i. Failure to prohibit the use of any restraint when contraindicated by Thomas and Jordan V.M. medical or psychological conditions, which were known to increase the risk of physical injury.

j. Failure to prohibit restraints that constrict the child's ability to breathe.

k. Failure to prohibit the use of multiple staff members in a restraint, which exponentially increases the risk of injury.

l. Failure to provide for the comfort of Thomas and Jordan V.M. while in prone restraint, including, but not limited to: offering Thomas and Jordan V.M. fluids, bathroom use, exercise, range of motion and periodic release of limbs.

m. Failure to require monitoring by staff of the vital signs of the child regularly throughout the restraint.

n. Failure to require continuous, close supervision of a restraint by the HWC trainer or another staff member who is not involved in the restraint.

o. Failure to require immediate and accurate reporting on each restraint

p. Failure to conduct a prompt and thorough review of any restraint imposed as a means to ensure compliance with laws and policies; to ensure continuing safety of students; and to prevent other incidents of restraint.

q. Failure to provide for:

- primary preventative measures rather than restraint;
- interventions that are less intrusive than restraints;
- effective ways to de-escalate situations to avoid restraints; and
- crisis intervention techniques that utilize alternatives to restraint.

1 r. Failure to provide staff with resources and tools to properly respond to  
2 the needs of those whom they serve and to be able to identify and address  
3 the triggers that may cause emotionally disturbed children to react in  
ineffectual ways to the environment.

4 s. Failure to teach students adaptive behaviors, especially involving autistic  
5 children who do not have effective ways of communicating and interacting  
6 with others.

7 t. Allowing use of physical restraints on children which:

8 - create an aversive environment counterproductive to facilitating  
9 learning;

10 - cause significant physical harm, serious, foreseeable long term  
psychological impairment.

11 u. Failure to provide oversight on the use of restraints to determine

12 - whether the intervention was necessary

13 - whether each restraint was implemented in a manner consistent  
14 with staff training, as well as school and District (SELPA) policy.

15 v. Failed to document injuries caused by restraint and

16  
17 w. Failed to get medical attention for a child who was injured while in  
18 restraint.

19 202. As a foreseeable result of the breach of said mandatory duties by said  
20 defendants, said school staff at GHS and POINT QUEST imposed numerous and  
21 prolonged prone restraints on Thomas and Jordan V.M. as hereinabove alleged,  
22 resulting in injuries to Thomas and Jordan V.M.

23 203. Breach of said mandatory duties by said defendants was a substantial factor  
24 in causing injuries Thomas and Jordan V.M.

25 204. At all times herein mentioned said defendants breached the general duties of  
26 due care of educational professionals toward Thomas and Jordan V.M. who were  
27 disabled students under their guidance and care.  
28

205. At all times herein mentioned, said defendants willfully, knowingly, intentionally, maliciously, and routinely used or encouraged the use of prone and other restraints on special needs/disabled children, including Thomas and Jordan V.M. as a form of corporal punishment in violation of California law.
206. At all times herein mentioned, said defendants willfully, knowingly, intentionally, maliciously, and routinely used or encouraged the use of prone and other restraints, known by said defendants to be dangerous, on disabled children, including on Thomas and Jordan V.M. with reckless disregard for the safety of said children.
207. At all times herein mentioned, said defendants, in doing each of the aforementioned acts, willfully, knowingly, intentionally, maliciously, and routinely used, or encouraged the use of, prone and other restraints, to injure special needs/disabled children and to create a reign of terror within the educational environment, in place and instead of providing educational services for special needs/disabled children, for which they were hired.
208. As a direct and foreseeable result of the negligence of said defendants learning of the death of Max Benson, plaintiffs and their own injuries Thomas and Jordan V.M. suffered physical and emotional injuries.
209. The negligence of said defendants was a substantial factor in causing injury Thomas and Jordan V.M. to suffer physical and emotional injuries.
210. By virtue of the willful and wanton, knowing, intentional, malicious acts of said defendants, and acts by said defendants that were done and acts done in reckless disregard for the safety and lives of Thomas and Jordan V.M., Thomas and Jordan V.M. are entitled to punitive damages against individual non-public entity defendants according to an award at the time of trial.

**TENTH CAUSE OF ACTION**

**NEGLIGENT SUPERVISION**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST, RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer  
Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD,  
RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL  
DISTRICT;  
DOES 1-100

211. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
fully set forth herein.

212. Said defendants had a legal duty to exercise reasonable care in supervising  
special needs students in its respective charge pursuant to California Education Code  
section 44807 and may be held liable for injuries proximately caused by the failure to  
exercise such care.

213. Said defendants failed to exercise reasonable care in supervising Thomas and  
Jordan V.M. when they suffered the abuse as described herein.

214. Said defendants breached their duties to Thomas and Jordan V.M. when they  
failed to supervise Thomas and Jordan V.M., its administrators and staff during the  
abuse, and failed to ensure that GHS and POINT QUEST administrators and staff were  
adequately trained and provided proper supervision.

215. As a direct and proximate result of the actions of said defendants as alleged  
herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages  
according to proof.

#### **ELEVENTH CAUSE OF ACTION**

##### **NEGLIGENCE PER SE**

Gloria V.M. against GHS, RAMSEY, MYERS, KELLY, NARAN, POINT QUEST,  
RUSD, PLACER COUNTY SELPA, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN,  
COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David  
CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR  
MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSEN,  
NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT  
SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE,  
GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer  
Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; EDUSD,  
RUSD, ROYER, DAVIDSON, PLACER COUNTY SELPA AND ROCKLIN SCHOOL  
DISTRICT;  
DOES 1-100

216. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though  
fully set forth herein

217. In doing the things herein alleged, said defendants violated the mandatory duties  
toward Thomas and Jordan V.M. as prescribed by state and federal law as referenced  
in each of the statutes as set forth here-in-above.

218. Said violations were of the statutes specifically intended to protect the class of  
plaintiff and to prevent the injuries as those described herein.

219. Said violations of criminal and civil law were a substantial factor in bringing about  
the harm alleged to Thomas and Jordan V.M. as set forth hereinabove.

220. As a direct and proximate result of the actions of said defendants as alleged  
herein, Thomas and Jordan V.M. suffered injury, and are entitled to damages  
according to proof.

**TWELFTH CAUSE OF ACTION  
Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing**

Asserted by the Plaintiffs Gloria, Thomas and Jordan V.M. Against Defendants GHS,  
Meyers, Keller, Point Quest, Troy Tickle, Kristi Gregerson, Cara Bruce and Doe  
Defendants 1-100

221. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though

fully set forth herein.

1       222.     Upon the respective enrollment of Thomas and Jordan V.M. entered into a  
2       written contract with GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
3       Gregerson, Cara Bruce and DOE defendants for the education of their children.

4       223.     At all times herein mentioned, Thomas and Jordan V.M. were intended third  
5       party beneficiaries to the afore-mentioned contracts entered into between their parents  
6       and defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
7       Gregerson, Cara Bruce and DOE defendants.

8       224.     As a part of said contract, GHS, MEYERS, KELLER, POINT QUEST, Troy  
9       Tickle, Kristi Gregerson, Cara Bruce and DOE defendants provided each of said  
10      parents, with a copy of GHS' and POINT QUEST's parent/teacher handbook in which  
11      GHS and POINT QUEST indicated that they had a system of positive behavior  
12      intervention and support. The GHS handbook also indicated that defendant GHS  
13      would "customize" the system to support student outcomes and "interact with students  
14      in a way that promotes social proficiency." The GHS handbook states that "social  
15      competence is a skill that requires direct teaching." The handbook assured parents  
16      that adult behavior when correcting a child would be "calm", "brief", and "respectful."

17      225.     As part of the contract between said parties and defendants GHS, MEYERS,  
18      KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
19      defendants promised to plaintiffs, and each of them, not to discriminate in any activity  
20      against any student based on physical or mental disability and further promised to  
21      prohibit intimidation or harassment by any employee of defendant GHS, MEYERS,  
22      KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
23      defendants against any student based on physical or mental disability.

24      226.     As part of said contract, defendants GHS, MEYERS, KELLER, POINT QUEST,  
25      Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
26      and each of them, to use Positive Behavior Interventions and Supports to correct  
27      inappropriate behavior and to interact with students in a way which promotes social  
28      proficiency and academic success, using as examples "positive language and

redirecting behavior using a lesson.”

1 227. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST,  
2 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
3 and each of them, that adult behavior when correcting a child would be “calm,  
4 consistent, brief, immediate and respectful,” and that their behavior intervention  
5 approach involved a three step prompt “verbal, modeling, hand-over-hand.”

6 228. As part of said contract defendants GHS, MEYERS, KELLER, POINT QUEST,  
7 Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants promised to plaintiffs,  
8 and each of them, that restraints would be imposed only if the child was a danger to  
9 himself or others so as to de-escalate and re-integrate into classroom activities; the  
10 restraints and their possible consequences for injury and death were not truthfully or  
11 accurately described to plaintiffs, and each of them, by defendants GHS, MEYERS,  
12 KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE  
13 defendants; and the most dangerous type of restraint, a prone restraint, was described  
14 by defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson,  
15 Cara Bruce, and DOE defendants to each of Thomas and Jordan V.M’s parents in  
16 innocuous language as a “neutral” restraint.

17 229. Plaintiffs, and each of them, did all of the significant things that the contract  
18 required them to do.

19 230. At all times herein mentioned, all of the conditions required for defendant GHS,  
20 MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and  
21 DOE defendants had occurred.

22 231. Defendants GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
23 Gregerson, Cara Bruce, and DOE defendants unfairly interfered with the rights of  
24 plaintiffs, and each of them, to receive the benefits of the contract by engaging in the  
25 conduct as herein alleged.

26 232. Defendant GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi  
27 Gregerson, Cara Bruce, and DOE defendants’ interference with the afore-mentioned  
28 benefits of the contract was done in bad faith in that defendants routinely imposed

corporal punishment, in addition to dangerous prone and other restraints, on special needs/disabled children under their care.

1  
2 233. By virtue of the bad faith interference with the contract benefits by defendants  
3 GHS, MEYERS, KELLER, POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce,  
4 and DOE defendants with said plaintiffs' contractual rights, plaintiffs MARQUES,  
5 Thomas and Jordan V.M., suffered severe emotional distress.

6 234. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER,  
7 POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with  
8 said plaintiffs' contractual rights are entitled to medical and therapeutic costs.

9 235. By virtue of the bad faith interference by defendants GHS, MEYERS, KELLER,  
10 POINT QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants with  
11 said plaintiffs' contractual rights, Gloria V.M. and the beneficiaries of said contract,  
12 Thomas and Jordan V.M., have suffered severe emotional and physical distress at  
13 having the respective children injured by being placed in prone and other restraints  
14 because of their autism and other disabilities.

15 236. By virtue of said bad faith interference with contractual benefits, all plaintiffs  
16 suffered physical and emotional injuries, and future general and special damages as  
17 herein alleged.

18 237. The bad faith interference by defendants GHS, MEYERS, KELLER, POINT  
19 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants was a  
20 substantial factor in causing each of the afore-mentioned injuries to plaintiffs, and each  
21 of them.

22 238. In doing the things herein alleged, defendants GHS, MEYERS, KELLER, POINT  
23 QUEST, Troy Tickle, Kristi Gregerson, Cara Bruce, and DOE defendants acted  
24 recklessly and with conscious disregard for the rights of plaintiffs, and each of them,  
25 willfully and maliciously exceeding the bounds of all behavior in a civilized behavior,  
26 brutalizing special needs/disabled children who had been entrusted to their care by  
27 their parents so as to receive an education that would allow their children to grow into  
28 well adjusted, well-functioning adults. As a consequence, plaintiffs, and each of them,

are entitled to punitive damages.

### THIRTEENTH CAUSE OF ACTION

#### FRAUD

Asserted by Gloria V.M. against GHS, POINT QUEST, PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOLS; TICKLE, GREGERSON, BRUCE, RAMSEY, MYERS, KELLY, NARAN, TOLLESTRUP, WEBBER, ROYER, DAVIDSON

239. Plaintiffs incorporate, by reference herein, all preceding paragraphs, as though fully set forth herein.

240. On or about the date of enrolling their respective children in defendant GHS, defendants, GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, represented to Gloria V.M. that said defendants would not to discriminate in any activity against any student at GHS based on physical or mental disability under Title IX, Education Code section 106.8(a)(d) and 106.9.8(a); that they prohibited intimidation or harassment by any employee of defendants GHS and POINT QUEST against any student based on physical or mental disability; that said defendants and their employees would use Positive Behavior Interventions and Supports to correct inappropriate behavior and to interact with students in a way which promotes social proficiency and academic success, including using "positive language and redirecting behavior using a lesson"; that behavior by GHS' staff when correcting a child would be "calm, consistent, brief, immediate and respectful,"; that GHS and POINT QUEST behavior intervention approaches involved a three step prompt "verbal, modeling, hand-over-hand"; and that restraints would be imposed only if the child was a danger to himself or others so as to de-escalate and re-integrate into classroom activities.

241. On or about the dates of the respective enrollment of Thomas and Jordan V.M., at GHS and POINT QUEST, PLACER and ROCKLIN UNIFIED SCHOOLS and their employees represented to Gloria V.M that they were required to sign a form allowing defendants GHS, MEYERS, KELLER, POINT QUEST, and DOE defendants, to impose restraints on said plaintiffs' respective children, with the implied threat that if they did not sign the form their respective children would not be enrolled at GHS, which was the

only school available to educate said children, and therefore, the parents would be in violation of California's mandatory education law.

1  
2 242. That the afore-mentioned representations of defendants, were false, and Gloria  
3 V.M. learned that they were false on or after November 29, 2018, upon the death of  
4 MAX, when they discovered that they did not have to allow or consent to the use of  
5 restraints against their disabled children.

6 243. Said defendants knew that said representations were false when they made  
7 them, and/or said defendants made the representations recklessly and without regard  
8 for the truth of said representations.

9 244. Said defendants intended that GLORIA V.M. rely on said representations.

10 245. GLORIA V.M. reasonably relied on said representations, and enrolled their  
11 respective children at defendant GHS to receive an education.

12 246. GLORIA V.M. were harmed by said intentional representations, in that each of  
13 said plaintiffs suffered severe emotional distress upon seeing their respective child  
14 injured at the hands of GHS and its staff after being placed in prone and other types  
15 of restraints for known behaviors related to the child's special needs and disability, and  
16 which behaviors did not present a clear and present danger to himself or others; and  
17 further plaintiffs, Thomas and Jordan V.M. suffered severe emotional distress when  
18 MAX was injured and killed after he had a behavioral outburst as a result of being  
19 isolated from the rest of the class with no staff member near him to keep him calm.

20 247. GLORIA V.M. reliance on said representations was a substantial factor in  
21 causing the severe emotional distress of said plaintiffs.

22 248. At all relevant times, said defendants acted with conscious disregard of the rights  
23 and feelings of GLORIA V.M. , and acted with the knowledge of, or with reckless  
24 disregard for, the fact that their conduct was certain to cause severe emotional distress  
25 to said plaintiffs. By virtue of the foregoing, said plaintiffs are entitled to recover  
26 punitive and exemplary damages from non-public entity defendants according to proof  
27 at the time of trial.

28 **FOURTEENTH CAUSE OF ACTION**

**Title II of the Americans with Disabilities Act of 1990,  
42 U.S.C. Sec's 12101 et seq.**

Thomas, V.M. and Jordan V.M. vs CDE,  
Rocklin Unified Schools, and Placer County SELPA

249. Plaintiffs incorporate by reference all preceding paragraphs.

250. Title II of the ADA prohibits public entities from denying persons with disabilities the benefits of its programs, services or activities. 28 U.S.C. § 12132.

251. Defendants CDE, Rocklin Unified Schools, and Placer County SELPA are public entities.

252. Thomas, V.M. and Jordan V.M. were at all relevant times students with disabilities who had been placed at GHS via their IEPs.

253. The ADA is violated not only by outright discrimination but also when a public entity engages in "forms of discrimination which deny disabled persons public services disproportionately due to their disability." *Crowder v. Kitagawa*, 81 F. 3d 1480, 1483 (9th Cir. 1996); see also, *Mark H. v. Lemahieu*, 513 F.3d 922, 937 (9th Cir. 2008). The ADA prohibits governmental agencies from denying persons with disabilities from "the benefits" of their programs. *Mark H.*, 513 F.3d at 937. The ADA requires more than just some access to governmental services; it requires "meaningful access". *Id.*

254. A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

- a. Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- b. Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- c. Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the public entity's program;

- d. Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

28 C.F.R. § 35.130(b)(1)(ii)(iii)(v) and (vii).

255. A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration-

- a. That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;
- b. That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's program with respect to individuals with disabilities; or
- c. That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control or are agencies of the same State.

28 C.F.R. § 35.130(b)(3).

256. A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability. 28 C.F.R. § 35.130(b)(6).

257. A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. § 35.130(b)(7).

258. A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. 28 C.F.R. § 35.130(d).

259. The LEA Defendants discriminated against the Plaintiff Students through their contractual arrangements with GHS to provide education services to LEA students with disabilities. Through GHS:

- a. The LEA Defendants provided the Plaintiff Students with educational aid, benefits and services that were not equal to those provided to students without disabilities;

1           b.     The LEA Defendants provided the Plaintiff Students with educational  
2 aid, benefits and services that did not afford equal opportunity to obtain the same  
3 result, to gain the same benefit, or to reach the same level of achievement as that  
4 provided to LEA students without disabilities;

5           c.     The LEA Defendants aided and perpetuated disability discrimination  
6 against the Plaintiff Students by providing significant state and federal financial  
7 assistance to GHS, which discriminated against LEA students on the basis of their  
8 disabilities by subjecting them to repeated physical and emotional abuse in  
9 response to predictable, disability-related behavior which did not constitute a clear  
10 and present danger to the safety of the students or others and which could have  
11 been addressed by less restrictive measures, including those outlined in the  
12 students' behavioral intervention plans;

13           d.     The LEA Defendants limited the Plaintiff Students from enjoying their  
14 right to a free public education in a safe placement, free from discrimination or  
15 abuse; and

16           e.     The LEA Defendants used administrative methods-specifically the  
17 policies and practices of GHS regarding behavioral interventions-that subjected  
18 Plaintiff Students to disability discrimination and defeated or substantially impaired  
19 the objective of providing a free public education to the Plaintiff Students.

20 260.     Moreover, the LEA Defendants directly discriminated against the Plaintiff  
21 Students by administering their public education program and local plans in a  
22 manner that resulted in placing and keeping students with disabilities in an unsafe,  
23 abusive educational placement. The LEA Defendants did not sufficiently-if at  
24 all-investigate, monitor, or supervise the placement. Nor did it acknowledge or direct  
25 GHS to correct its known violations of state and federal law against the Plaintiff  
26 Students. As a result, the Plaintiff Students were not afforded education services  
27 equal to those afforded to other students and were subject to disability  
28 discrimination and repeated physical and emotional abuse.

1       261.     The LEA Defendants failed to make reasonable modifications to their  
2       program of providing special education services to children within the LEA, such that  
3       LEA students with disabilities would not be subject to discrimination and abuse in  
4       their educational placements. These modifications-meaningful investigations and  
5       evaluations of the NPS prior to placing an LEA student there and forceful oversight,  
6       investigation, and measures to ensure compliance with state and federal laws during  
7       the placement, including site visits and regular review of school and student records  
8       and BERs-would not have constituted a fundamental alteration in the LEAs'  
9       programs of providing educational services to their students.

10       262.     GHS's use of restraints was so excessive in frequency, duration, force and  
11       purpose that any educator or monitoring official who personally observed the  
12       program for more than an hour would realize that the school and its staff had  
13       exceeded the legal bounds for emergency interventions and were physically abusing  
14       their students. However, the CDE and the LEAs ignored their legal duties to  
15       supervise and monitor the program and continued to re-certify GHS and place and  
16       leave vulnerable students in the school's care.

17       263.     The LEA Defendants were deliberately indifferent to disability discrimination  
18       and abuse of which they knew or should have known had they taken seriously their  
19       duties to investigate and evaluate GHS prior to placing LEA students there; to  
20       supervise, monitor, investigate, and ensure the legal compliance of GHS during the  
21       placement; and to remove LEA students when it became clear that GHS was not a  
22       safe placement and was subjecting the students to physical and emotional abuse  
23       and discriminating against them on the basis of their disabilities.

24       264.     Defendant CDE knew or should have known that: students with disabilities at  
25       nonpublic schools-including GHS-were being restrained frequently, for excessive  
26       periods of time, with excessive force, and in response to predictable,  
27       disability-related behavior that did not constitute a clear and present danger to the  
28       students' or others' safety; the types of restraints being used against children with  
      disabilities were dangerous and have resulted in serious injury to and death of

1 students with disabilities in response to behavior that was known to be a  
2 manifestation of the students' disabilities; that the particular disabilities of the  
3 children against whom these restraints were used made the restraints even more  
4 dangerous; and that the restraints were not only ineffective and contrary to the  
5 students' BIPs, but more often than not aggravated the students' behavioral  
6 problems.

7 265. Defendant CDE discriminated against Plaintiffs on the basis of their  
8 disabilities by:

- 9 a. Abdicating its duties to supervise, monitor, investigate, train, and  
10 ensure legal compliance of nonpublic schools, including GHS, with  
11 laws designed to protect students with disabilities from  
12 discrimination and abuse;
- 13 b. Failing to take even minimal measures to ensure statewide  
14 compliance with state and federal laws within nonpublic schools,  
15 including GHS;
- 16 c. Administering its licensing program of certifying, monitoring,  
17 investigating and taking corrective action against nonpublic  
18 schools which provide educational services to children with  
19 disabilities in a discriminatory, cursory, and indifferent  
20 manner;
- 21 d. Failing to make reasonable modifications to its policies and  
22 practices regarding certification, monitoring, supervision,  
23 investigation, and legal compliance of nonpublic schools in  
24 light of repeated notifications from the U.S. Department of  
25 Education and other sources regarding the disproportionate  
26 use of restraints on children with disabilities and their tragic  
27 outcomes; and
- 28 e. Completely abandoning its duty to monitor and supervise the use of  
emergency behavioral interventions in nonpublic schools under  
Cal. Ed. Code § 56521(b).

22 266. The CDE knew and was deliberately indifferent to the fact that children with  
23 disabilities were being restrained at far greater rates than children without disabilities  
24 and that the rates of restraint use were significantly higher at "nonpublic" schools  
25 such as GHS than at public schools. It took no action to strengthen its oversight and  
26 monitoring of nonpublic schools or laws restricting the use of physical interventions.  
27 The CDE knew and was deliberately indifferent to allegations that children with  
28 disabilities being improperly restrained at GHS and failed to conduct an emergency

1 site visit when they had a substantial reason to believe that there was an immediate  
2 danger to the health, safety and welfare of students at GHS. The CDE did not  
3 conduct a real investigation or visit the school until after GHS staff killed a student  
4 by restraining him.

5 267. Defendants' actions and failures to act were a substantial factor in causing  
6 physical and emotional injuries to the Plaintiff Students as outlined above.

7 268. Plaintiffs seek compensatory damages and attorneys' fees and costs.

8 **FIFTEENTH CLAIM FOR RELIEF**  
9 **Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

10 Thomas, V.M. and Jordan V.M. vs CDE,  
11 Rocklin Unified Schools, and Placer County SELPA

12 269. Plaintiffs incorporate by reference all preceding paragraphs

13 270. Section 504 prohibits entities that receive federal financial assistance from  
14 denying persons with disabilities the benefits of their programs, services or activities  
15 or otherwise discriminate against them on the basis of their disabilities. 29 U.S.C. §  
16 794; 34 C.F.R. pt. 104.

17 271. Thomas V.M. and Jordan V.M. were at all relevant times students with  
18 disabilities who had been placed at GHS by the LEAs in which they resided via their  
19 IEPs.

20 272. The CDE and the LEA Defendants receive federal financial assistance to  
21 provide special education services to children with disabilities in California. 20  
22 U.S.C. §§ 1411-1413.

23 273. Defendant GHS was a "nonpublic school" that contracted with the LEA  
24 Defendants to provide educational services to students with disabilities, including  
25 the Plaintiff Students, on behalf of the LEA Defendants in exchange for the state  
26 and federal financial assistance provided to the LEA Defendants to perform those  
27 services. Cal. Ed. Code § 56365. Section 504 therefore applies to GHS. 34 C.F.R.  
28 § 104.2 ("This part applies to each recipient of Federal financial assistance from the  
Department of Education and to the program or activity that receives such  
assistance.").

274. Section 504 prohibits recipients of federal financial assistance from directly or through contractual, licensing, or other arrangements, on the basis of disability:

- a. Denying a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit or service;
- b. Affording a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- c. Providing a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others;
- d. Aiding or perpetuating discrimination against a qualified person with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to the beneficiaries of the recipients' program or activity;
- e. Otherwise limiting a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

C.F.R. 104.4(b)(1)(i)(ii)(iii)(v) and (vii).

275. Section 504 prohibits recipients of federal financial assistance from directly or through contractual or other arrangements, utilizing criteria or methods of administration:

- a. That have the effect of subjecting persons with disabilities to discrimination on the basis of their disabilities;
- b. that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the recipient's program or activity with respect to persons with disabilities; or
- c. That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

C.F.R. § 104.4(b)(4).

276. GHS engaged in deliberate discrimination against the Plaintiff Students on the basis of their disabilities. GHS and its staff subjected the Plaintiff Students to illegal, excessive and harmful restraints in response to known, disability-related behaviors that did not constitute a clear and present danger to the safety of the students or others and that could have been addressed by less restrictive measures, including

those outlined in the students' BIPs. GHS discriminated against the Plaintiff Students by:

- a. Denying them the opportunity to participate in educational services free from physical and emotional abuse;
- b. Providing them educational services that were not equal to or as effective as those afforded to children without disabilities;
- c. Preventing students with disabilities from enjoying their rights to receive a free, public education and the benefits that come with it in an environment free from physical and emotional abuse; and
- d. Administration methods, particularly those regarding behavioral interventions-that subjected students to disability discrimination and that defeated and/or substantially impaired the accomplishment of the students' educational objectives.

277. The LEA Defendants discriminated against the Plaintiff Students through their contractual arrangements with GHS to provide education services to LEA students with disabilities by:

- a. Denying them the opportunity to participate in educational services free from physical and emotional abuse;
- b. Providing them educational services that were not equal to or as effective as those afforded to children without disabilities;
- c. Preventing students with disabilities from enjoying their rights to receive a free, public education and the benefits that come with it in an environment free from physical and emotional abuse; and
- d. Using administration methods, particularly those regarding behavioral interventions-that subjected students to disability discrimination and that defeated and/or substantially impaired the accomplishment of the students' educational objectives.

278. The LEA Defendants aided and perpetuated disability discrimination against the Plaintiff Students by providing significant state and federal financial assistance to GHS, which discriminated against LEA students on the basis of their disabilities by subjecting them to repeated physical and emotional abuse in response to predictable, disability-related behavior which did not constitute a clear and present danger to the safety of the students or others and which could have been addressed by less restrictive measures, including those outlined in the students' behavioral intervention plans.

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279. Moreover, the LEA Defendants directly discriminated against the Plaintiff Students by administering their public education program and local plans in a manner that resulted in placing and keeping students with disabilities in an unsafe, abusive educational placement. The LEA Defendants did not sufficiently-if at all-investigate, monitor, or supervise the placement. Nor did they acknowledge or direct GHS to correct its known violations of state and federal law against the Plaintiff Students. As a result, the Plaintiff Students were not afforded education services equal to those afforded to other students and were subject to disability discrimination and repeated physical and emotional abuse.

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280. GHS's use of restraints was so excessive in frequency, duration, force and purpose that any educator or monitoring official who personally observed the program for more than an hour would realize that the school and its staff had exceeded the legal bounds for emergency interventions and were physically abusing their students. However, the CDE and the LEAs ignored their legal duties to supervise and monitor the program and continued to re-certify GHS and place and leave vulnerable students in the school's care.

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281. The LEA Defendants were deliberately indifferent to disability discrimination and abuse of which they knew or should have known had they taken seriously their duties to investigate and evaluate GHS prior to placing LEA students there; to supervise, monitor, investigate, and ensure the legal compliance of GHS during the placement; and to remove LEA students when it became clear that GHS was not a safe placement and was subjecting the students to physical and emotional abuse and discriminating against them on the basis of their disabilities.

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282. Defendant CDE knew or should have known that: students with disabilities at nonpublic schools-including GHS-were being restrained frequently, for excessive periods of time, with excessive force, and in response to predictable, disability-related behavior that did not constitute a clear and present danger to the students' or others' safety; the types of restraints being used against children with disabilities were dangerous and have resulted in serious injury to and death of

1 students with disabilities in response to behavior that was known to be a  
2 manifestation of the students' disabilities; that the particular disabilities of the  
3 children against whom these restraints were used made the restraints even more  
4 dangerous; and that the restraints were not only ineffective and contrary to the  
5 students' BIPs, but more often than not aggravated the students' behavioral  
6 problems.

7 283. Defendant CDE discriminated against Plaintiffs on the basis of their  
8 disabilities by:

- 9 a. Abdicating its monitoring, investigation and compliance duties  
10 with regard to nonpublic schools, including GHS;
- 11 b. Failing to take even minimal measures to ensure statewide  
12 compliance with state and federal laws within nonpublic  
13 schools, including GHS;
- 14 c. Administering its licensing program of certifying, monitoring,  
15 investigating and taking corrective action against nonpublic  
16 schools which provide educational services to children with  
17 disabilities in a discriminatory, cursory, and indifferent manner;
- 18 d. Failing to make reasonable modifications to its policies and  
19 practices regarding certification, monitoring, supervision,  
20 investigation, and compliance of nonpublic schools in light of  
21 repeated notifications from the U.S. Department of Education  
22 regarding the disproportionate use of restraints on children  
23 with disabilities and their tragic outcomes; and
- 24 e. Completely abandoning its duty to monitor and supervise the  
25 use of emergency behavioral interventions in nonpublic  
26 schools under Cal. Ed. Code § 56521(b).

27 284. The CDE knew and was deliberately indifferent to the fact that children with  
28 disabilities were being restrained at far greater rates than children without disabilities  
and that the rates of restraint use were significantly higher at "nonpublic" schools  
such as GHS than at public schools. It took no action to strengthen its oversight and  
monitoring of nonpublic schools or laws restricting the use of physical interventions.  
The CDE knew and was deliberately indifferent to allegations that children with  
disabilities were being improperly restrained at GHS and failed to conduct an  
emergency site visit when they had a substantial reason to believe that there was an  
immediate danger to the health, safety and welfare of students at GHS. The CDE

did not conduct a real investigation or visit the school until after GHS staff killed a student by restraining him.

285. Defendants actions and failures to act were a substantial factor in causing physical and emotional injuries to the Plaintiff Students as outlined above.

286. Plaintiffs seek compensatory damages and attorneys' fees and costs.

### **SIXTEENTH CLAIM FOR RELIEF**

#### **42 U.S.C. § 1983, Fourth Amendment to the U.S. Constitution**

MARQUES, against GHS, KELLER, MYERS, RAMSEY, CHRISTENSEN, CHAMBERS, BRUCE, ZOMBURY, ANDERSON, CORY QUINCY, BYRNA QUINCY, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Thomas V.M. against defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against defendants GHS, Susan Jane BATTLE, CHRISTENSON, NARAN, Noel COLLIER, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

Jordan V.M. against POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC;

DOES 1-100.

287. Plaintiffs incorporate by reference all preceding paragraphs.

288. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, used excessive force against Marques, Thomas, V.M. and Jordan V.M. when they restrained them in response to predictable, disability-related behavior that did not constitute a clear and present danger to Marques, Thomas, V.M. and Jordan V.M. 's or others' safety and that could have been addressed by less restrictive measures, including those outlined in their BIPs. Defendants' use of force was objectively unreasonable in light of

Marques, Thomas, V.M. and Jordan V.M. 's behavior and California law restricting the use of physical interventions. Defendants' use of restraints was also unreasonable in their frequency, duration, pressure and restrictions applied, lack of monitoring of Marques, Thomas, V.M. and Jordan V.M. health condition, and the pain and injuries caused to Marques, Thomas, V.M. and Jordan V.M.

289. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, violated the Plaintiff Students' Fourth Amendment rights when they instituted and maintained a policy and practice at GHS of restraining students in response to predictable, disability-related behavior that did not constitute a clear and present threat to the students' or others' safety and that could have been addressed by less restrictive interventions, such as those outlined in students' BIPs.

290. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE, HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, were acting under color of state law when they instituted and practiced a policy of restraining students, including the Plaintiff Students, in response to predictable, disability-related behavior that did not constitute a clear and present threat to the students' or others' safety and that could have been addressed by less restrictive interventions, such as those outlined in students' BIPs.

291. Defendants GHS and POINT QUEST were performing a public function that the LEA Defendants were legally required to provide and for which they were receiving state and federal funds-that of providing free educational services, including special education, to the Plaintiff Students. If an LEA does not have an

1 appropriate special education placement within its district, it may place a student in  
2 a nonpublic school. Cal. Ed. Code § 56365. In turn, the student "will be deemed to  
3 be enrolled in public schools" for the purpose of state and federal funding. Cal. Ed.  
4 Code § 56365(b). However, the LEAs are to monitor and supervise the placement  
5 and transition the student back to the public schools if the NPS is no longer  
6 appropriate to meet the student's needs. Cal. Ed. Code § 56366(a)(2)(B). The  
7 LEA continues to be responsible for the child's placement and special education  
8 needs and must participate in their IEP meetings. 20 U.S.C. § 1414(d)(1)(B)(iv).

9 292. The Plaintiff Students were placed and kept at GHS by the LEA Defendants  
10 pursuant to their IEPs. GHS had a Master Contract with each of the Defendant  
11 LEAs to provide education services to the Plaintiff Students.

12 293. GHS and POINT QUEST sent BERs to the LEA Defendants demonstrating  
13 the excessive and illegal nature of the restraints, but this information was filed away  
14 and ignored. The IEP teams, in which the LEA Defendants participated, did not  
15 review and modify students' BIPs when it was clear they were ineffective or not  
16 being followed. Despite knowing that their students were being illegally restrained  
17 by GHS staff, the LEA Defendants left the Plaintiff Students at the school and did  
18 not take any action to stop the restraints. Because they were unable and unwilling  
19 to provide the educational services themselves, the LEA Defendants ignored and  
20 thereby allowed the violations of Plaintiffs' constitutional rights, knowingly accepting  
21 the benefits of GHS's illegal behavior.

22 294. At all times relevant to the complaint, the individual GHS and POINT QUEST  
23 Defendants were acting in the performance of their official duties to provide  
24 educational services, including special education services, to the Plaintiff Students  
25 pursuant to state and federal law and GHS's contract with the LEA Defendants.

26 295. The GHS and POINT QUEST Defendants knowingly deprived the Plaintiff  
27 Students of their Fourth Amendment rights to be free from excessive force.

28 296. Defendants GHS, RAMSEY, MYERS, KELLY, NARAN, COLLIER, ROLAND  
DOE, NICOLE DOE, CHRISTENSEN, David CHAMBERS, Susan Jane BATTLE,

HANDLE WITH CARE BEHAVIOR MANAGEMENT SYSTEMS, INC; POINT QUEST, TOLLESTRUP, BRUCE, TICKLE, GREGERSON, WEBER, Patricia Doe, David Doe, Amanda Doe, Noelle Doe, Jennifer Doe, , deprived Plaintiffs Thomas and Jordan V.P. of their Fourth Amendment rights to be free from excessive force. As administrators of the PLACER COUNTY SELPA Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON administrators for ROCKLIN UNIFIED SCHOOLS, were responsible for overseeing the Plan's implementation, which included: 1) coordinating with school districts to ensure that all special education students in the Plan area have equal access to the full continuum of programs and services; 2) working with the school districts to identify unmet student needs and resources to meet those needs; 3) receiving, distributing, and monitoring the use of special education funding; 4) entering into Master Contracts with nonpublic schools, reviewing and monitoring those contracts, issuing and monitoring the assurances for those contracts, and maintaining updated contracts; and 5) submitting for approval to the Superintendents' Council policies and procedures governing regional and District-operated programs, including nonpublic schools. As administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON administrators for ROCKLIN UNIFIED SCHOOLS had a duty to monitor GHS as a nonpublic school with which it had a Master Contract to provide services for students in the Plan area. They also had a duty to monitor the use of special education funding and ensure that it was not going to programs that used behavioral interventions that violated state or federal law. Cal. Ed. Code §§ 56521.2, 56523(d).

297. GHS, MEYER, KELLER, RAMSEY, CHRISTENSEN, ZOMBURY, ANDERSON, ROBB, BRUCE, CORY, BRYNA, CHAMBERS, BRUCE, and DOE defendants deprived Plaintiff Marques of his Fourth Amendment rights to be free from excessive force.

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298. Despite widespread knowledge within the educational community about the disproportionate use of excessive, illegal and dangerous restraints on children with disabilities and in nonpublic schools, as administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were deliberately indifferent to the Fourth Amendment rights of students in the YOLO SELPA plan area to be free from excessive force. They maintained a policy and practice within YCOE and YOLO SELPA of ignoring their duties to monitor GHS and ensure that it was complying with state and federal laws prohibiting discrimination and restricting the use of physical behavior interventions.

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299. From media reports, U.S. Department of Education publications and letters, and reports published by nonprofits advocating for students with disabilities, it was well-known within the educational community that children with disabilities were being subjected to illegal restraints at a greater rate than those without disabilities and that nonpublic schools restrained students at higher rates. As administrators of the PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS were deliberately indifferent to this information and failed to implement policies and procedures for training, monitoring and supervision of nonpublic school placements. Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON failed to supervise and train staff to ensure that they understood the laws preventing illegal restraints and were adequately monitoring the NPS placements of PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOL students to ensure that they were not being subjected to excessive force.

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300. At all times relevant to the complaint, Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth DAVIDSON were acting under color of state law in the performance of their official duties as administrators for public entities, PLACER COUNTY SELPA and ROCKLIN UNIFIED SCHOOLS.

1       301.       Kristi GREGERSEN, Troy TICKLE, and Defendants Kristain ROYER, Beth  
2       DAVIDSON 's actions and failures to act were a substantial factor in causing  
3       Thomas and Jordan V.M.'s physical and emotional pain and suffering.

4       302.       Defendants and Defendants Kristain ROYER, Beth DAVIDSON,  
5       administrators for ROCKLIN UNIFIED SCHOOLS

6       303.       Defendants Kristain ROYER, Beth DAVIDSON, administrators for ROCKLIN  
7       UNIFIED SCHOOLS deprived Jordan V.M. of their Fourth Amendment rights to be  
8       free from excessive force. RUSD and Defendants Kristain ROYER, Beth  
9       DAVIDSON, administrators for ROCKLIN UNIFIED SCHOOLS wer responsible for  
10       the coordination of special education services and programs within the RUSD and  
11       the implementation of the PLACER COUNTY SELPA plan. This included assuring  
12       that the District's programs-including any nonpublic school in which the District has  
13       placed a special education student-did not discriminate against children on the  
14       basis of disability and followed state and federal education laws, including those  
15       prohibiting the use of excessive force against students. DAVIDSON was the direct  
16       supervisor of Defendant ROYER , the RUSD Program Specialist assigned to  
17       Jordan V.M.. ROYER was responsible for developing Jordan's IEP, ensuring that  
18       Jordan's educational placement at POINT QUEST was appropriate, monitoring the  
19       delivery of services to Jordan, and ensuring that the program in which Jordan had  
20       been placed complied with state and federal laws, including those related to the  
21       use of behavioral interventions and use of physical force. ROYER was also  
22       responsible for coordinating and monitoring the implementation of educational  
23       programs and services at nonpublic schools at which RUSD students had been  
24       placed.

25       304.       Throughout Jordan's's placement at POINT QUEST, ROYER and  
26       DAVIDSON received information and documents demonstrating that POINT  
27       QUEST was subjecting Jordan to excessive force. Specifically, POINT QUEST  
28       staff was placing Jordan in illegal restraints POINT QUEST in response to  
      predictable, disability-related behaviors which did not pose a clear and present

1 danger to the safety of the student or others and could have been addressed by  
2 less restrictive interventions. This information included, but was not limited to,  
3 Behavior Emergency Reports, information provided by POINT QUEST staff at  
4 Jordan's IEP meetings, and documents accompanying Jordan's IEP meetings.

5 305. ROYER AND DAVIDSON were deliberately indifferent to the knowledge that  
6 POINT QUEST was subjecting Jordan to excessive force. Defendants did nothing  
7 to investigate POINT QUEST to stop the restraints, or remove to a safe, approved  
8 placement.

9 306. From media reports, U.S. Department of Education publications and letters,  
10 and reports published by nonprofits advocating for students with disabilities, it was  
11 well-known within the educational community that children with disabilities were  
12 being subjected to illegal restraints at a greater rate than those without disabilities  
13 and that nonpublic schools restrained students at higher rates. As administrators  
14 for ROCKLIN UNIFIED SCHOOLS, Kristain ROYER, Beth DAVIDSON, deprived  
15 Jordan V.M. was deliberately indifferent to this information and failed to implement  
16 policies and procedures for training, monitoring and supervision of nonpublic school  
17 placements. DAVIDSON failed to supervise and train the program specialists  
18 working under her to ensure that they understood the laws preventing illegal  
19 restraints and were adequately monitoring the NPS placements of RUSD students  
20 to ensure that they were not being subjected to excessive force.

21 307. At all times relevant to the complaint, Kristain ROYER, Beth DAVIDSON  
22 were acting under color of state law in the performance of their official duties for  
23 public entity RUSD.

24 308. Kristain ROYER, Beth DAVIDSON's actions and failures to act were a  
25 substantial factor in causing Jordan's physical and emotional pain and suffering.

26 309. GHS, MEYER, KELLER, RAMSEY, ZOMBURY, ANDERSON, ROBB, BRUCE,  
27 CORY, BRYNA, CHRISTENSEN, CHAMBERS, BRUCE, and DOE defendants'  
28 actions and failures to act were a substantial factor in causing Marques' physical and  
emotional pain and suffering.

**DAMAGES**

WHEREFORE, Plaintiffs pray for judgment against Defendants, as follows:

**FIRST CAUSE OF ACTION  
INTERFERENCE WITH THE EXERCISE OF  
CIVIL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTIONS 51et seq**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SECOND CAUSE OF ACTION  
INTERFERENCE WITH PLAINTIFFS' EXERCISE OF CIVIL RIGHTS IN VIOLATION  
OF CALIFORNIA CIVIL CODE SECTION 51.7**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress

6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**THIRD CAUSE OF ACTION  
INTERFERENCE WITH PLAINTIFFS' EXERCISE OF  
CIVIL RIGHTS IN VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FOURTH CAUSE OF ACTION  
VIOLATIONS OF CALIFORNIA EDUCATION CODE  
§§ 200, 201, 220 and 260, et seq.**

1. General damages for in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;

4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FIFTH CAUSE OF ACTION  
ASSAULT AND BATTERY CONSTITUTING TORTURE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SIXTH CAUSE OF ACTION  
ASSAULT AND BATTERY**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;

2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**SEVENTH CAUSE OF ACTION  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**EIGHTH CAUSE OF ACTION  
FALSE IMPRISONMENT, CONSPIRACY TO COMMIT FALSE IMPRISONMENT**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
8. Punitive and exemplary damages against all non-public entity Defendants
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**NINTH CAUSE OF ACTION  
NEGLIGENCE**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress;
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Costs of this action;
10. Such other and further relief as the Court deems just and proper.

**TENTH CAUSE OF ACTION  
NEGLIGENT SUPERVISION**

- 1 General damages for Pain and suffering in an amount to be determined according to
- 2 proof at trial;
- 3 2. Medical and future medical and related expenses in an amount to be
- 4 determined by proof at trial;
- 5 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 6 4. Impairment of earning capacity for in an amount to be determined by proof at
- 7 trial;
- 8 5. General damages for severe emotional and psychological distress
- 9 6. Pain and suffering;
- 10 7. Statutory damages;
- 11 8. Attorneys' fees;
- 12 9. Costs of this action;
- 13 10. Such other and further relief as the Court deems just and proper.

**ELEVENTH CAUSE OF ACTION  
NEGLIGENCE PER SE**

- 15 1. General damages for Pain and suffering in an amount to be determined
- 16 according to proof at trial;
- 17
- 18 2. Medical and future medical and related expenses in an amount to be
- 19 determined by proof at trial;
- 20 3. Past and future lost earnings in an amount to be determined by proof at trial;
- 21 4. Impairment of earning capacity for in an amount to be determined by proof at
- 22 trial;
- 23 5. General damages for severe emotional and psychological distress
- 24 6. Pain and suffering;
- 25 7. Statutory damages;
- 26 8. Attorneys' fees;
- 27 9. Costs of this action;
- 28 10. Such other and further relief as the Court deems just and proper.

**TWELFTH CAUSE OF ACTION  
Tortious Breach of the Covenant  
Of Good Faith and Fair Dealing**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**THIRTEENTH CAUSE OF ACTION  
FRAUD**

1. General damages for Pain and suffering in an amount to be determined according to proof at trial;
2. Medical and future medical and related expenses in an amount to be determined by proof at trial;
3. Past and future lost earnings in an amount to be determined by proof at trial;
4. Impairment of earning capacity for in an amount to be determined by proof at trial;
5. General damages for severe emotional and psychological distress
6. Pain and suffering;
7. Statutory damages;
8. Attorneys' fees;
9. Punitive and exemplary damages against all non-public entity Defendants
10. Costs of this action;
11. Such other and further relief as the Court deems just and proper.

**FOURTEENTH CAUSE OF ACTION**  
**Title II of the Americans with Disabilities Act of 1990,**  
**42 U.S.C. Sec's 12101 et seq.**

1. Compensatory Damages
2. Attorneys' fees and costs

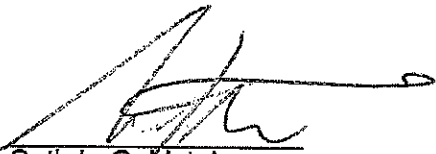
**FIFTEENTH CLAIM FOR RELIEF**  
**Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

1. Compensatory Damages
2. Attorneys' fees and costs

**SIXTEENTH CLAIM FOR RELIEF**  
**42 U.S.C. § 1983, Fourth Amendment to the U.S. Constitution**

1. Compensatory Damages
2. Punitive Damages
- c. Attorneys' fees and costs

Dated: October 18, 2021



Seth L. Goldstein,  
Attorney at Law

**SUMMONS** ON SECOND AMENDED COMPLAINT  
(CITACION JUDICIAL)

**NOTICE TO DEFENDANT:**  
(AVISO AL DEMANDADO):

GUIDING HANDS SCHOOL, et al. (\*\*\* PLEASE SEE ATTACHMENT 1 \*\*\*)

**YOU ARE BEING SUED BY PLAINTIFF:**

**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Louis Andres MARQUES, Glorie V.M., Thomas V.M., and Jordan V.M.

FOR COURT USE ONLY  
(NO USAR PARA USO DE LA CORTE)  
**FILED**

NOV 30 2021

EL DORADO CO. SUPERIOR COURT

BY [Signature]

(DEPUTY CLERK)

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos extintos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California - County of El Dorado  
3321 Cameron Park Drive  
Cameron Park, CA 95682

CASE NUMBER:  
(Número del Caso):  
PC 202000429

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Seeth L. Goldstein, Attorney at Law, 2100 Garden Road, Suite H-8, Monterey, CA 93940 Telephone Number: (831) 372-8511

DATE:  
(Fecha)

NOV 30 2021

Clerk, by  
(Secretario)

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):

Form Adopted for Mandatory Use  
Judicial Council of California  
SUM-100 (Rev. July 1, 2009)

**SUMMONS**

On Second Amended Complaint

Page 1 of 1  
Code of Civil Procedure §§ 412.20, 465  
[www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)

SCANNED

Exhibit 10 2021

LOUIE ANDREASE MARQUES, et al.,  
vs.  
GUIDING HANDS SCHOOL, et al.

Case Number: PC20200429

**SUMMONS ON SECOND AMENDED COMPLAINT  
ATTACHMENT 1**

**NOTICE TO DEFENDANT:**

GUIDING HANDS SCHOOL, Inc., (hereinafter "GHS"),, Staranne MEYERS, Cindy KELLER, Phyllis RAMSEY, Jennifer CHRISTENSEN, David CHAMBERS, Noel Doe, Nicole DOE, Roland DOE, Noel COLLIER, Patricia DOE, David DOE, Amanda DOE, Cara BRUCE, Ashley ROBB, Dellores ZUMBURY, Vince ANDERSON, Susan Jane BATTLE and Noelle DOE; STATE OF CALIFORNIA, DEPARTMENT OF EDUCATION; PLACER COUNTY SELPA, Kristi GREGERSEN, Troy TICKLE, POINT QUEST, Inc., Bill TOLLESTRUP, Bill WEBBER, Nicole DOE, Jennifer DOE; ROCKLIN UNIFIED SCHOOL DISTRICT, Kristain ROYER, Beth DAVIDSON; HANDLE WITH CARE BEHAVIOR MANAGMENT SYSTEMS, INC.

**YOU ARE BEING SUED BY PLAINTIFF:**

Louie Andreas MARQUES, Gloria V.M., Thomas V.M., and Jordan V.M.

**SUMMONS ON SECOND AMENDED COMPLAINT  
ATTACHMENT 1**

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Seth L. Goldstein (SBN 176882)</b> Law Offices of Seth L. Goldstein 2100 Garden Rd, STE H-8 Monterey, CA 93940  TELEPHONE NO.: (831) 372-9511      FAX NO. (Optional): (831) 372-9611 E-MAIL ADDRESS: <a href="mailto:slglawoffice@gmail.com">slglawoffice@gmail.com</a> ATTORNEY FOR (Name): <b>Plaintiffs</b>	<b>FOR COURT USE ONLY</b>  <div style="font-size: 2em; font-weight: bold; margin: 10px 0;">FILED</div> <div style="font-size: 1.2em; font-weight: bold; margin: 5px 0;">DEC 15 2021</div> EL DORADO CO. SUPERIOR COURT BY <u><i>Andy J. Warden</i></u> (DEPUTY CLERK)
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO</b> STREET ADDRESS: 1354 Johnson Blvd MAILING ADDRESS: 1354 Johnson Blvd CITY AND ZIP CODE: South Lake Tahoe, CA 96150 BRANCH NAME: <b>Civil</b>	CASE NUMBER: <b>PC20200429</b>
PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M. and Jordan V.M. DEFENDANT/RESPONDENT: Guiding Hands School, Inc. Staranne Meyers, et al.	
<div style="text-align: center; font-weight: bold;">CASE MANAGEMENT STATEMENT</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">           (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b>            (Amount demanded exceeds \$25,000)         </div> <div style="width: 35%;"> <input type="checkbox"/> <b>LIMITED CASE</b>            (Amount demanded is \$25,000 or less)         </div> </div>	
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: December 21, 2021      Time: 3:30 p.m.      Dept.: 4      Div.:      Room: Address of court (if different from the address above):	
<input checked="" type="checkbox"/> <b>Notice of Intent to Appear by Telephone, by (name): Seth L. Goldstein</b>	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
  - a. ☒ This statement is submitted by party (name): All Plaintiffs, Marques and V.M.
  - b. ☐ This statement is submitted jointly by parties (names):
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
  - a. The complaint was filed on (date):
  - b. ☐ The cross-complaint, if any, was filed on (date):
3. **Service (to be answered by plaintiffs and cross-complainants only)**
  - a. ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - b. ☒ The following parties named in the complaint or cross-complaint
    - (1) ☒ have not been served (specify names and explain why not): Opposing Counsel not accepting service after they said they would. Staff illness and changes have delayed our achieving service
    - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
    - (3) ☐ have had a default entered against them (specify names):
  - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
4. **Description of case**
  - a. Type of case in ☒ complaint ☐ cross-complaint  
 Violation of civil rights in educational setting, assault, fraud. (Describe, including causes of action):

SCANNED

 Exhibit F  
 DEC 15 2021

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M. and Jordan V.M.	CASE NUMBER:
DEFENDANT/RESPONDENT: Guiding Hands School, Inc. Staranne Meyers, et al.	PC20200429

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)  
Plaintiffs Marques and V.M. were disabled students at defendant, GHS. They were repeatedly assaulted as discipline differently than those without such a disability.

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☒ a jury trial ☐ a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a. ☐ The trial has been set for (date):  
b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. ☒ days (specify number): 20  
b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney: Seth L. Goldstein  
b. Firm: Law Offices of Seth L. Goldstein  
c. Address: 2100 Garden Rd, STE. H-8, Monterey, CA 93940  
d. Telephone number: (831) 372-9511  
e. E-mail address: slglawoffice@gmail.com  
f. Fax number: (831) 372-9611  
g. Party represented: Plaintiffs

☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative dispute resolution (ADR)

- a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 of the California Rules of Court for information about the processes available through the court and community programs in this case.
- (1) For parties represented by counsel: Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.  
(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.
- b. **Referral to judicial arbitration or civil action mediation (if available).**
- (1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.  
(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.  
(3) ☒ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):  
Amount in controversy, complex case.

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M. and Jordan V.M.  
 DEFENDANT/RESPONDENT: Guiding Hands School, Inc. Staranne Meyers, et al.

CASE NUMBER:  
 PC20200429

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form are willing to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M. and Jordan V.M.	CASE NUMBER:
DEFENDANT/RESPONDENT: Guiding Hands School, Inc. Staranne Meyers, et al.	PC20200429

**11. Insurance**

- a. ☐ Insurance carrier, if any, for party filing this statement (name):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (explain):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (specify):

Status:

**13. Related cases, consolidation, and coordination**

- a. ☒ There are companion, underlying, or related cases.
- (1) Name of case: Langley, Benson, et al. vs Guiding Hands School, et al.
- (2) Name of court: Eastern District Court of California
- (3) Case number: 2:20-cv-00635-TLN-KJN
- (4) Status:
- ☒ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (name party):

**14. Bifurcation**

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

**15. Other motions**

- ☐ The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):

**16. Discovery**

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (describe all anticipated discovery):

Party	Description	Date
Marques/V.M. - All Plaintiffs	Request to Produce; Request for Admissions; Form Interrogatories; Special Interrogatories	Unknown because of circumstances below

- c. ☒ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (specify):
- Main issue relating to discovery are that the 4 bankers boxes of evidence and related electronic devices containing records held by the district attorney under a protective order pending resolution of the criminal case. The criminal case was set for trial in March 2021 and preliminary examination in January 2021 but the case has been continued to a date not yet set

CM-110

PLAINTIFF/PETITIONER: Louie Andreas Marques, Gloria V.M., Thomas V.M. and Jordan V.M.	CASE NUMBER:
DEFENDANT/RESPONDENT: Guiding Hands School, Inc. Staranne Meyers, et al.	PC20200429

**17. Economic litigation**

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

**18. Other issues**

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

**19. Meet and confer**

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):  
Counsel for Rocklin Unified Schools
- b. ☐ After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

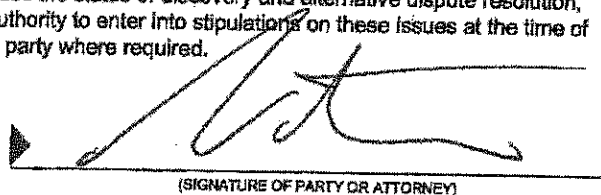
20. Total number of pages attached (if any): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: December 15, 2021

Seth L. Goldstein

(TYPE OR PRINT NAME)

  
(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

IN THE SUPERIOR COURT OF CALIFORNIA  
COUNTY OF EL DORADO  
DEPARTMENT 4

LOUIE ANDREAS MARQUES )

Plaintiff/Petitioner, )

v. )

GUIDING HANDS SCHOOL )

Defendant/Respondent. )

Case No. PC20200429

Event Date: 12/21/2021 3:30 pm

Department: Department 4

Event Type: Case Management Conference

Mtn/OSC:

Add'l Info:

Judge:

Clerk: Wendy Warden

Reporter: For The Record - Recording Device

**Civil Unlimited - Minutes**

The Honorable Judge Pro Tem Jennifer Peterson presiding.

**Appearances:**

Attorney: Seth Goldstein is present by V Court on behalf of Plaintiffs Louie Andreas Marques et al.

There are no appearances on behalf of defendants..

**Nature of Proceedings:**

The Court, on its own motion, orders this matter continued as follows:

DATE/TIME	DEPT.	PURPOSE
03/22/2022 3:30 PM	Department 4	Case Management Conference

Notice by Plaintiffs' counsel.